

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 42, NUMBER 12
WEDNESDAY, JUNE 1, 2016

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ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 42, NUMBER 12
WEDNESDAY, JUNE 1, 2016

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, May 13, 2016.

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MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet June 14, 2016, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **2863-2864** of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2015 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

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KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title		Chapter	Regulation
806	KAR	50:	155
Cabinet, Department, Board, or Agency		Office, Division, Board, or Major Function	Specific Regulation

ADMINISTRATIVE REGISTER OF KENTUCKY

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VOLUME 42, NUMBER 12 – JUNE 1, 2016

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, JUNE 14, 2016, at 1:00 p.m., Room 149 Capitol Annex

GENERAL GOVERNMENT CABINET
Board of Medical Licensure

Board

- 201 KAR 9:016. Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances.
- 201 KAR 9:025. Interpretation and application of KRS 311.571(10).
- 201 KAR 9:081. Disciplinary proceedings.
- 201 KAR 9:240. Emergency orders and hearings; appeals and other proceedings.
- 201 KAR 9:250. Registration and oversight of pain management facilities.

Office of Occupations and Professions
Board of Licensure for Ophthalmic Dispensers

Board

- 201 KAR 13:040. Licensure; application; examination; experience; renewal; and inactive status. (Amended After Comments)
- 201 KAR 13:050. Apprentices. (Not Amended After Comments)

State Board of Licensure for Professional Engineers and Land Surveyors

Board

- 201 KAR 18:020. Application forms.

Board of Nursing

Board

- 201 KAR 20:520. Telehealth. (Not Amended After Comments)

Board of Social Work

Board

- 201 KAR 23:055. Inactive status of license.
- 201 KAR 23:075. Continuing education for renewal.

Board of Licensure for Marriage and Family Therapists

Board

- 201 KAR 32:030. Fees.

Board of Licensed Diabetes Educators

Board

- 201 KAR 45:110. Supervision and work experience. (Not Amended After Comments) (Deferred from November)

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources

Game

- 301 KAR 2:095. Importation of cervid carcasses and parts.
- 301 KAR 2:122. Seasons, methods, and limits for small game.
- 301 KAR 2:226. Youth waterfowl, moorhen, and gallinule hunting seasons.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality

Attainment and Maintenance of the National Ambient Air Quality Standards

- 401 KAR 51:010. Attainment status designations.

Ambient Air Quality

- 401 KAR 53:010. Ambient air quality standards.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections

Office of the Secretary

- 501 KAR 6:020. Correction policies and procedures. (Amended After Comments)

TRANSPORTATION CABINET
Office of the Secretary

Administration

- 600 KAR 1:031. Repeal of 600 KAR 1:030 and 600 KAR 1:045.

Toll Facilities

- 600 KAR 2:011. Repeal of 600 KAR 2:010, 2:020, 2:030, and 2:040.

Department of Vehicle Regulation

Motor Carriers

- 601 KAR 1:032. Repeal of 601 KAR 1:030, 601 KAR 1:031, 601 KAR 1:045, 601 KAR 1:050, 601 KAR 1:065, and 601 KAR 1:070.

Division of Driver Licensure

Administration

- 601 KAR 2:030 & E. Ignition interlock. ("E" expires 9/25/2016)

Department of Vehicle Regulation

Motor Vehicle Tax

- 601 KAR 9:056. Repeal of 601 KAR 9:055.

Division of Vehicle Enforcement

Commissioned Employees

- 601 KAR 15:030. Repeal of 601 KAR 15:010 and 601 KAR 15:020.

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**PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control**

Licensing

804 KAR 4:400. ABC basic application and renewal form incorporated by reference.

**Department of Financial Institutions
Division of Nondepository Institutions**

Check Cashing

808 KAR 9:050. Required forms, procedures, and fees for applicants and licensees.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support**

Supplemental Nutrition Assistance Program

921 KAR 3:035 & E. Certification process. ("E" expires 9/28/2016)

REMOVED FROM THE JUNE AGENDA

**GENERAL GOVERNMENT CABINET
Board of Respiratory Care**

Board

201 KAR 29:015. Fees. (Comments Received, SOC ext., due 6/15/16)

**LABOR CABINET
Department of Workers' Claims**

Department

803 KAR 25:010. Procedure for adjustments of claims. (Comments Received, SOC ext., due 6/15/16)

803 KAR 25:014. Repeal of 803 KAR 25:009. (Comments Received, SOC ext., due 6/15/16)

**PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control**

Quotas

804 KAR 9:040. Quota retail package licenses. (Comments Received, SOC ext., due 6/15/16)

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency**

Child Welfare

922 KAR 1:320 & E. Service appeals for Title 922 KAR Chapters 1, 3, and 5. ("E" exp. 9/26/16) (Comments Received, SOC ext., due 6/15/16)

Division of Child Care

Day Care

922 KAR 2:020 & E. Child Care Assistance Program (CCAP) improper payments, claims, and penalties. ("E" exp. 9/26/16) (Comments Received, SOC ext., due 6/15/16)

922 KAR 2:160 & E. Child Care Assistance Program. ("E" exp. 9/26/16) (Comments Received, SOC ext., due 6/15/16)

922 KAR 2:260 & E. Child care service appeals. ("E" exp. 9/26/16) (Comments Received, SOC ext., due 6/15/16)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE - OVERVIEW
(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing and comment period information, regulatory impact analysis and tiering statement, fiscal note, federal mandate comparison, and incorporated material information. Those administrative regulations received by the deadline established in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on proposed administrative regulations which shall not be held before the 21st day or later than the last workday of the month of publication. Written comments shall also be accepted until the end of the calendar month in which the administrative regulation was published.

The administrative regulation shall include: the place, time, and date of the hearing; the manner in which persons may submit notification to attend the hearing and written comments; that notification to attend the hearing shall be sent no later than 5 workdays prior to the hearing date; the deadline for submitting written comments; and the name, position, address, and telephone and fax numbers of the person to whom notification and written comments shall be sent.

The administrative body shall notify the Compiler, by phone and letter, whether the hearing was held or cancelled and whether written comments were received. If the hearing was held or written comments were received, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the month of publication.

A transcript of the hearing is not required unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

After the public hearing and public comment period processes are completed, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or 30 days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS

STATEMENT OF EMERGENCY
9 KAR 1:040E

This emergency administrative regulation is one that must be placed into effect immediately in order to meet the requirements of HB 80, which increases the Executive Agency Lobbyist Registration fee required by KRS 11A.211 from \$125 to \$500 during the biennium from July 1, 2016 through June 30, 2018. The fee is due to be filed between July 1 and July 31 of every year. HB 80 has an emergency enactment date upon the signature of the Governor. An ordinary administrative regulation is not sufficient because it will unduly delay the increase of the Executive Agency Lobbyist registration fee until after the filing period that begins on July 1, 2016. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

HON. MATTHEW BEVIN, Governor
HON. WILLIAM DAVID DENTON, Chair

FINANCE CABINET
Executive Branch Ethics Commission
(Emergency Amendment)

9 KAR 1:040E. Registration and expenditure statements; financial transactions and termination forms; ~~handbook;~~ and enforcement.

RELATES TO: KRS 11A.211, 11A.216, 11A.221, 11A.231, 11A.233(1), 11A.241(4), (5), (6), 11A.990
STATUTORY AUTHORITY: KRS 11A.110(3), (4), 11A.241(5)
EFFECTIVE: May 13, 2016
NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.241(4) requires the Executive Branch Ethics Commission to prescribe the initial registration statement, the updated registration statement, and the termination notice required by KRS 11A.211, the statement of expenditures required by KRS 11A.216, and the statement of financial transactions required by KRS 11A.221. ~~[KRS 11A.241(6) requires the commission to publish a handbook that explains the provisions of KRS 11A.201 to 11A.246. KRS 11A.990 states that a lobbyist who fails to file a registration statement shall be subject to a civil penalty.]~~ This administrative regulation establishes the registration, financial transactions, and expenditure statements, termination notice, ~~handbook,~~ and enforcement procedure.

Section 1. Definitions. (1) "Commission" means the Executive Branch Ethics Commission.

- (2) "Employer" is defined by KRS 11A.201(3).
- (3) "Executive agency decision" is defined by KRS 11A.201(7).
- (4) "Executive agency lobbyist" is defined by KRS 11A.201(8).
- (5) "Real party in interest" is defined by KRS 11A.201(15).

Section 2. Initial Registration Statement. (1) The initial registration statement required by KRS 11A.211 shall be filed on the ~~["Initial Registration Statement"]~~ form.

(2)(a) The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist:

- 1. Has been engaged; or
- 2. Is responsible.
- (b) Subject matters shall include:
 - 1. An award of grant for social services;
 - 2. A lease for office space or equipment;
 - 3. A contract to provide food, clothing, or other consumable products; and
 - 4. Any other subject matter.

(3)(a) The signature on the ~~["Initial Registration Statement"]~~ which is filed with the commission shall be submitted either in blue or black ink, electronically by facsimile or electronic mail to the commission, or through an online system established by the commission~~[an original signature in ink other than black].~~

(b) The forms incorporated by reference in this administrative regulation may be reproduced by an executive agency lobbyist or his employer.

Section 3. [2.] (1) The ~~["Updated Registration Statement"]~~ form required by KRS 11A.211(2) shall be filed on the applicable ~~["Updated Registration Statement"]~~ forms.

(2) The notice of termination required by KRS 11A.211(4) shall be filed on the ~~["Termination Notification As Executive Agency Lobbyist"]~~ form.

Section 4. [3.] Enforcement Procedure. (1) If an executive agency lobbyist, an employer of an executive agency lobbyist, or a real party in interest has not filed an ~~["Updated Registration Statement"]~~ on or before the date the statement is due, the commission shall notify the party, by certified mail, return receipt requested, that if the statement is not filed within fifteen (15) days of the date of the receipt of notice the commission shall levy a fine, as provided by KRS 11A.990(5).

(2) If, by the 16th day after proof of service of the certified letter is received by the commission, the commission has not received the statement that was due by July 31, the commission shall prepare and issue to the executive agency lobbyist, employer, or real party in interest an order demanding payment of the appropriate fine as required by KRS 11A.990(5). The executive agency lobbyist, employer, or real party in interest shall pay the fine no later than ten (10) days from the date of the order. The commission may exonerate or reduce the fine if the commission receives evidence during the ten (10) day fine payment period indicating the filer has already filed the updated registration statement, or that the delinquency is in error.

(3) The commission also may exonerate or reduce a fine for late filing of the updated registration statement if the commission feels that exoneration, based on the circumstances, is warranted.

(4) If the commission is not in receipt of the fine from the executive agency lobbyist, employer, or real party in interest by the tenth day after issuance of the order demanding payment of the fine, the general counsel may recommend that the commission initiate an investigation of the executive agency lobbyist, employer, or real party in interest to determine if the failure to file was intentional causing the criminal penalties set forth in KRS 11A.990(6) to apply.

Section 5. [4.] Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Initial Registration Statement", ~~[rev. 04/2016[02/07]]~~;
- (b) "Updated Registration Statement - Executive Agency Lobbyist", ~~[rev. 04/2016[02/07]]~~;
- (c) "Updated Registration Statement - Employer of Executive Agency Lobbyist", ~~[rev. 04/2016[02/07]]~~;
- (d) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined", ~~[rev. 04/2016[02/07]]~~;
- (e) "Updated Registration Statement - Real Party in Interest", ~~[rev. 04/2016[02/07]]~~;
- (f) "Termination Notification as Executive Agency Lobbyist", ~~[rev. 04/2016[02/07]]~~;
- (g) ~~["Executive Agency Lobbying Handbook (Rev. 02/07)"; and~~
(h) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist", ~~[9/93]]~~;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, ~~#3 Fountain Place~~~~The Vest Lindsey House, 401 Wapping Street],~~ Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM DAVID DENTON, Chair
APPROVED BY AGENCY: April 19, 2016
FILED WITH LRC: May 13, 2016 at noon
CONTACT PERSON: Kathryn H. Gabhart, Executive Director,
Executive Branch Ethics Commission, #3 Fountain Place, Frankfort,
Kentucky 40601, phone (502) 564-7954, fax (502) 564-2686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kathryn H. Gabhart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance to Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest as to how to file an initial registration and updated registrations with the Executive Branch Ethics Commission as required by KRS 11A.211, 11A.216, 11A.221, and 11A.241(4).

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 11A.241(4), (5), and (6).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides guidance and forms required by KRS 11A.211, 11A.216, 11A.221, and 11A.241(4).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently provides guidance and the forms required for Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest to file an initial registration and updated registrations with the Executive Branch Ethics Commission as required by KRS 11A.211, 11A.216, 11A.221, and 11A.241(4).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the administrative regulation by revising the forms required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4) as required by HB 80 of the 2016 General Assembly Session, as well as necessary changes for ease of use and aesthetic functioning of the forms.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is required by HB 80 of the 2016 GA increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016 - June 30, 2018.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to the administrative regulation conforms to HB 80 of the 2016 General Assembly Session amending KRS 11A.211 increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the administration of KRS 11A.211 as amended by HB 80 of the 2016 General Assembly Session increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018, to ensure that Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest are aware of the increase in the fee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest, and officials of Executive Branch Agencies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: All Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest, and officials of Executive Branch Agencies will be aware of the amendment of KRS 11A.211 by HB 80 of the 2016 General Assembly Session increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to pay the increased fee and file the required forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no known cost associated with this amended administrative regulation. The increase in the Executive Lobbyist Registration fee is required by HB 80 as amending KRS 11A.211

during the biennium.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest, and officials of Executive Branch Agencies will have guidance and notice as to the requirements of KRS 11A.211, 11A.216, 11A.221, and 11A.241(4) and the increase in the Executive Lobbyist Registration fee is required by HB 80 as amending KRS 11A.211 during the biennium.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Minimal costs to the Executive Branch Ethics Commission associated with the publication of training materials and conducting education already provided by the Commission's budget.

(b) On a continuing basis: Minimal costs to the Executive Branch Ethics Commission associated with the ongoing publication of training materials and conducting education already provided by the Commission's budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission's existing budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation will not require an increase in any fees or funding. The increase in the Executive Lobbyist Registration fee is required by HB 80 as amending KRS 11A.211 during the biennium.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation applies equally to all affected individuals.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Executive Branch of state government.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. HB 80 of the 2016 General Assembly session and KRS 11A.241(4), (5), and (6).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to the administrative regulation will not generate any revenue, but only conforms with the increase in the Executive Lobbyist Registration fee that is required by HB 80 as amending KRS 11A.211 during the biennium.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to the administrative regulation will not generate any revenue, but only conforms with the increase in the Executive Lobbyist Registration fee that is required by HB 80 as amending KRS 11A.211 during the biennium.

(c) How much will it cost to administer this program for the first year? \$500 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

(d) How much will it cost to administer this program for subsequent years? \$300 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the regulation.

Revenues (+/-): None
Expenditures (+/-): None
Other Explanation:

STATEMENT OF EMERGENCY
301 KAR 2:221E

This emergency administrative regulation establishes season dates, limits, shooting hours and other requirements for hunting waterfowl on public lands. Waterfowl hunting season frameworks are set annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons shall do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. States must supply season selections for publication in the Federal Register less than 8 weeks after the final frameworks for migratory bird hunting regulations are published in the federal register. Once Kentucky's season selections are published in the Federal Register, there is no opportunity for revisions. An ordinary administrative regulation will not suffice because the time provided by the USFWS is not adequate for the normal regulatory process. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

GREGORY K. JOHNSON, Commissioner
MATTHEW G. BEVIN, Governor

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Emergency Amendment)

301 KAR 2:221E. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

EFFECTIVE: May 11, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Dark goose" means a Canada goose, white-fronted goose, or brant.

(2) "Light Goose" means a snow goose or Ross's goose.

(3) "Light Goose Conservation Order" is defined by 50 C.F.R. 21.60

(4) "Waterfowl" is defined by KRS 150.010(40).

Section 2. (1) Except as established in 301 KAR 2:222, 2:225, or 2:226, a person shall not hunt waterfowl except during the seasons established in this administrative regulation.

(2) Hunting zones, special hunt areas and reporting areas are established in 301 KAR 2:224.

Section 3. Season dates. (1) ~~The~~ duck, coot, and merganser[~~The~~] season shall:

(a) Begin on Thanksgiving Day for four (4) consecutive days; and

(b) Be for fifty-six (56) consecutive days ending on the last Sunday in January of the following year.

(2) Canada goose.

(a) In the Eastern, Pennyrile, and Western Goose Zones, the season shall be from~~begin on~~ Thanksgiving Day through February 15~~and continue until January 31~~.

(b) In the Northeast Goose Zone, the season shall be from~~begin on~~ the third Saturday in December through~~and~~

~~continue until~~ January 31.

(3) ~~The~~ white-fronted goose and brant[~~The~~] season shall be from~~begin on~~ Thanksgiving Day through February 15~~and continue until January 31~~.

(4) ~~The~~ light goose[~~The~~] season shall be from~~begin on~~ Thanksgiving Day through February 15~~and continue until January 31~~.

(5) ~~The~~ Light Goose Conservation Order season shall be from February 16 through March 31.~~(a) In the Western Duck Zone, the season shall be from February 1 through March 31, except:~~

~~1. The season shall be closed during the first full weekend in February; and~~

~~2. Youth hunters may hunt during the first full weekend in February pursuant to 301 KAR 2:226.~~

~~(b) In the Eastern Duck Zone, the season shall be from February 1 through March 31.]~~

(6) A person shall not hunt a light or dark goose in:

(a) The areas of Laurel River Lake as posted by sign; or

(b) Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, US 60, and Highway 826.

Section 4. In the Ballard Zone that is established in 301 KAR 2:224:

(1) A person hunting waterfowl shall:

(a) Hunt from a blind unless hunting in flooded, standing timber;

(b) Not hunt from or establish a blind:

1. Within 100 yards of another blind; or

2. Within fifty (50) yards of a property line; and

(c) Not possess more than one (1) shotgun while in a blind.

(2) The requirements of subsection (1) of this section shall not apply if the Light Goose Conservation Order, as established in 301 KAR 2:221, is the only waterfowl season open, excluding falconry seasons.

Section 5. Bag and Possession Limits. (1) Ducks. The daily limit shall be six (6), which shall not include more than:

(a) Four (4) mallards;

(b) Two (2) hen mallards;

(c) Three (3) wood ducks;

(d) One (1) black duck;

(e) Two (2) redheads;

(f) Two (2) pintails;

(g) Three (3) scaup;

(h) One (1) mottled duck; or

(i) Two (2) canvasback.

(2) Coot. The daily limit shall be fifteen (15).

(3) Merganser. The daily limit shall be five (5), which shall not include more than two (2) hooded mergansers.

(4) Dark goose. The daily limit shall be five (5), which shall not include more than:

(a) Three (3) Canada geese;

(b) Two (2) white-fronted geese; or

(c) One (1) brant.

(5) Light goose. The daily limit shall be twenty (20), except that there shall not be a limit during the Light Goose Conservation Order season.

(6) The possession limit shall be triple the daily limit, except that there shall not be a light goose possession limit.

Section 6. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) Sunset, except as established in 301 KAR 2:222; or

(2) One-half (1/2) hour after sunset if hunting light goose during the Light Goose Conservation Order season.

Section 7. Falconry Waterfowl Season and Limits. (1) The light goose season shall be from Thanksgiving Day~~November 5~~ through February 15~~January 31~~.

(2) The Light Goose Conservation Order season shall be from February 16 through March 31.

~~(a) In the Western Duck Zone, the season shall be from February 1 through March 31, except:~~

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1. ~~The falconry season shall be closed during the first full weekend in February; and~~

2. ~~Youth waterfowl hunters may hunt during the first full weekend in February pursuant to 301 KAR 2:226.~~

~~(b) In the remainder of the state, the season shall be from February 1 through March 31.]~~

(3) The season for all other waterfowl shall be from Thanksgiving Day~~[November 5]~~ through February 15~~[January 31]~~.

(4) The daily limit shall be three (3) waterfowl, except that there shall not be a limit on light goose during the Light Goose Conservation Order season.

(5) The possession limit shall be nine (9) waterfowl, except that there shall not be a possession limit on light goose during the Light Goose Conservation Order season.

Section 8. Permit for the Light Goose Conservation Order season. (1) A person hunting light goose during the Light Goose Conservation Order season shall first obtain a free permit by completing the online Snow Goose Conservation Order Permit process on the department's Web site at fw.ky.gov.

(2) A person hunting light goose during the Light Goose Conservation Order season shall submit a Snow Goose Conservation Order Permit Survey to the department by April 10.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Snow Goose Conservation Order Permit", January 2014; and

(b) "Snow Goose Conservation Order Permit Survey", January 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GREGORY K. JOHNSON, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: May 3, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2016-2017 waterfowl hunting seasons in accordance with the USFWS.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing hunting season and bag limit requirements and providing reasonable hunting opportunity consistent with state, national, and international management requirements and goals.

(2) If this is an amendment to an existing administrative

regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment will add two additional weeks of Canada goose, white-fronted goose, brant and light goose season in February. It adjusts the falconry season to start on Thanksgiving Day so that Canada geese are not exposed to more than 107 days of regular hunting.

(b) The necessity of the amendment to this administrative regulation: Waterfowl seasons and limits are set on an annual basis following the establishment of federal frameworks by the U.S. Fish and Wildlife Service each year. It is the Department's responsibility to allow quality hunting opportunity within these federal frameworks. The increase in the daily hunting period will provide additional opportunity for local waterfowl hunters.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The current changes in season dates and/or bag limits will be published in the fall waterfowl hunting guide and on the department's website. Hunters will need to follow all applicable amendments to the hunting season and bag limits.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be an increased opportunity to hunt waterfowl in the state.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will not be an additional cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase any fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: This administrative regulation does not establish any fees directly or increase any fees indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Wildlife Division and Law Enforcement Division.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of

waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? No new costs will be incurred in the administration of this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred in the administration of this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

- Revenues (+/-):
- Expenditures (+/-):
- Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

STATEMENT OF EMERGENCY
301 KAR 2:222E

This emergency administrative regulation establishes season dates, limits, shooting hours and other requirements for hunting waterfowl on public lands. Waterfowl hunting season frameworks are set annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons shall do so within the federal frameworks. Development of

the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. States must supply season selections for publication in the Federal Register less than 8 weeks after the final frameworks for migratory bird hunting regulations are published in the federal register. Once Kentucky's season selections are published in the Federal Register, there is no opportunity for revisions. An ordinary administrative regulation will not suffice because the time provided by the USFWS is not adequate for the normal regulatory process. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

GREGORY K. JOHNSON, Commissioner
MATTHEW G. BEVIN, Governor

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Emergency Amendment)

301 KAR 2:222E. Waterfowl hunting requirements on public lands.

RELATES TO: KRS 150.010(40), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

EFFECTIVE: May 11, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Blind" means a:

- (a) Concealed enclosure;
- (b) Pit; or
- (c) Boat.
- (2) "Department blind" means a permanently fixed blind structure built by the department.
- (3) "Hunt site" means a specific location where waterfowl hunting is allowed, as approved by the department or the U.S. Army Corps of Engineers.
- (4) "Layout blind" means a portable blind that when fully deployed allows one (1) person to be concealed above the surface of the ground.
- (5) "Party" means:
 - (a) A person hunting alone; or
 - (b) Two (2) to four (4) people who share a department blind or hunt site.
- (6) "Permanent blind" means a blind left in place by a waterfowl hunter longer than twenty-four (24) hours.
- (7) "Regular waterfowl season" means the open waterfowl season that does not include the Light Goose Conservation Order or the September wood duck, teal, and Canada goose seasons as established in 301 KAR 2:221 and 2:225.
- (8) "Wildlife Management Area" or "WMA" means a tract of land:

- (a) Controlled by the department through ownership, lease, license, or cooperative agreement; and
- (b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:

- (1) Longer than three and one-half (3 1/2) inches; or
- (2) Containing:

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- (a) Lead shot;
- (b) Shot not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or
- (c) Shot larger than size "T".

Section 3. (1) Except as established in this section or in Section 4 of this administrative regulation, on a Wildlife Management Area:

- (a) A person hunting waterfowl shall not:
 1. Establish or hunt from a permanent waterfowl blind;
 2. Hunt within 200 yards of:
 - a. Another occupied hunt site;
 - b. Another legal waterfowl hunting party; or
 - c. An area closed to waterfowl hunting;
 - (b) A person shall not hunt in a designated recreation area or access point;
 - (c) More than four (4) persons shall not occupy a waterfowl blind or hunt site; and
 - (d) A hunter shall remove decoys and personal items daily, except that a hunter drawn for a multiday hunt may choose to leave decoys in place for the duration of the hunt.
- (2) In order to establish or use a permanent waterfowl blind or hunt site on Lake Barkley, Barren River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake, Paintsville Lake, Rough River Lake, Sloughs, or Doug Travis Wildlife Management Areas, a person:
 - (a) Shall first obtain a waterfowl blind permit from the U.S. Army Corps of Engineers or the department;
 - (b) May designate one (1) other person as a partner; and
 - (c) Shall not hold more than one (1) permit per area.
- (3) A person who participates in a drawing for a hunt site permit shall:
 - (a) Be at least eighteen (18) years of age; and
 - (b) Possess:
 1. A valid Kentucky hunting license;
 2. A Kentucky waterfowl permit; and
 3. A federal duck stamp.
 - (4) The holder of a hunt site permit shall:
 - (a) Construct or establish the blind or hunt site before November 20 or forfeit the permit;
 - (b) Not lock a waterfowl blind; and
 - (c) Remove the blind and blind materials within thirty (30) days after the close of the regular waterfowl season or be ineligible for a permit the following year, unless an extension of time is granted by the department based on weather or water level conflicts.
 - (5) A permanent blind, department blind, or blind site not occupied by the permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.
 - (6) A waterfowl blind restriction established in this section shall not apply to a falconer if a gun or archery season is not open.

Section 4. Wildlife Management Area Requirements. (1) The regular waterfowl season provisions shall apply, as established in 301 KAR 2:221, except as established in this section.

- (2) The provisions of this section shall not apply to a waterfowl hunting season that opens prior to October 15, as established in 301 KAR 2:225.
- (3) A person shall not:
 - (a) Hunt on an area marked by a sign as closed to hunting;
 - (b) Enter an area marked by signs as closed to public access;or
- (c) Hunt a species on an area marked by signs as closed to hunting for that species.
- (4) On Wildlife Management Areas in Ballard County:
 - (a) The shotgun shell possession limit shall be fifteen (15), except that the shotgun shell possession limit shall be twenty-five (25) if:
 1. The daily bag limit for ducks is greater than three (3); and
 2. The daily bag limit for Canada goose is greater than or equal to two (2); and
 - (b) At least one (1) person in a waterfowl blind shall be eighteen (18) years of age or older if hunting in a department waterfowl blind or hunt site.

- (5) At Ballard WMA:
 - (a) The duck, coot, merganser, and goose season shall be the ~~first~~^{second} Wednesday in December through the last Sunday in January;
 - (b) Youth waterfowl season shall be the first full weekend in February;
 - (c) A person hunting waterfowl shall not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day; and
 - (d) A person hunting waterfowl shall:
 1. Apply for the waterfowl quota hunt as established in Section 5 of this administrative regulation;
 2. Not hunt waterfowl on the Ohio River from fifty (50) yards upstream of Dam 53 to fifty (50) yards downstream from the southern border of Ballard Wildlife Management Area from October 15 through March 15; and
 3. Exit the area by 2 p.m. during the regular waterfowl season, except as authorized by the department.
 - (6) At Boatwright WMA, including the Olmsted, Peal, and Swan Lake units:
 - (a) A party shall:
 1. Not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day;
 2. Obtain a daily check-in card by 8 a.m. before entering the area from the ~~first~~^{second} Wednesday in December through the last Sunday in January; and
 3. Check out the same day by:
 - a. Visiting the designated Check station prior to 8 a.m.; or
 - b. Depositing the check-in card at a department-designated drop point after 8 a.m.;
 - (b) Duck season shall be open one-half (1/2) hour before sunrise to sunset beginning Thanksgiving Day for four (4) consecutive days on areas of Boatwright WMA that are open to hunting;
 - (c) A department blind or hunt site shall be assigned through a daily drawing through the last Sunday in January;
 - (d) A department blind or hunt site shall be offered to another hunter on a first-come, first-served basis, if the blind or hunt site has not been assigned during the daily drawing;
 - (e) Waterfowl hunters shall exit the area by 2 p.m. during the regular waterfowl season;
 - (f) A boat blind shall not be permitted in flooded timber, except:
 1. During periods of flood if no other access is possible; or
 2. A mobility-impaired hunter may hunt from a boat; and
 - (g) A party shall only hunt waterfowl:
 1. From a department blind; or
 2. From layout blinds set so that all layout blinds in the party lie within a twenty-five (25) foot radius from the center of the party, and within 200 yards of a hunt site [~~in December and January~~] during the regular waterfowl season.
 - (7) On the Peal unit of Boatwright WMA:
 - (a) More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;
 - (b) More than four (4) parties shall not hunt at the same time on Fish Lake;
 - (c) More than three (3) parties shall not hunt at the same time on First Lake or Second Lake; and
 - (d) A party shall not hunt waterfowl except within twenty-five (25) feet of a hunt site during the regular waterfowl season [~~December and January~~].
 - (8) On the Swan Lake Unit of Boatwright WMA:
 - (a) A person shall not hunt waterfowl from Thanksgiving Day through the ~~first~~^{second} Tuesday in December;
 - (b) The area open to hunting during the regular waterfowl season shall be open for the Light Goose Conservation Order season as established in 301 KAR 2:221; and
 - (c) Blind restrictions shall not apply to the Light Goose Conservation Order season.
 - (9) Lake Barkley WMA:
 - (a) A permanent blind shall only be established within ten (10) yards of a blind site.
 - (b) Waterfowl refuge areas shall be:
 1. The area west of the Cumberland River channel, as marked by buoys, between river mile fifty-one (51), at Hayes Landing Light,

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south to the Tennessee Valley Authority's power transmission lines at river mile fifty-five and five-tenths (55.5) shall be closed from November 1 through February 15; and

2. The area within Honker Bay and Fulton Bay, as marked by buoys and signs, which shall be closed from November 1 through March 15.

(c) A person shall not hunt from October 15 through March 15:

1. On Duck Island; or
2. Within 200 yards of Duck Island.

(10) Barren River Lake WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(11) Big Rivers WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(12) Cedar Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(13) Miller Welch-Central Kentucky WMA. A person shall not hunt waterfowl from October 15 through January 14.

(14) Lake Cumberland WMA. The following sections shall be closed to the public from October 15 through March 15:

(a) The Wesley Bend area, bounded by Fishing Creek, Beech Grove Road and Fishing Creek Road; and

(b) The Yellowhole area, bounded by Fishing Creek Road and Hickory Nut Road.

(15) Dix River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(16) Doug Travis WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.

(d) On Black Lake, Fish Lake, Forked Lake, Indian Camp Lake, Number Four Lake, Town Creek Moist Soil Unit, and Upper Goose Lake, all waterfowl hunting after November 1:

1. Shall be from hunt sites assigned by a random preseason drawing; and

2. Shall be within ten (10) yards of a hunt site, including periods of Mississippi River flooding.

(17) Grayson Lake WMA. A person shall not hunt waterfowl:

(a) Within the no-wake zone at the dam site marina;

(b) From the shore of Camp Webb;

(c) On Deer Creek Fork; or

(d) Within three-quarters (3/4) of a mile from the dam.

(18) Green River Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(19) Kaler Bottoms WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(20) Kentucky River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(21) Land Between the Lakes National Recreation Area.

(a) The following portions shall be closed to the public from November 1 through March 15:

1. Long Creek Pond;

2. The eastern one-third (1/3) of Smith Bay, as marked by buoys; and

3. The eastern two-thirds (2/3) of Duncan Bay, as marked by buoys;

(b) The following portions shall be closed to waterfowl hunting:

1. The Environmental Education Center; and

2. Energy Lake.

(c) A person shall possess an annual Land Between the Lakes Hunting Permit if hunting waterfowl:

1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or

2. From a boat on a flooded portion of Land Between the Lakes when the lake level is above elevation 359.

(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

(e) A person shall not establish or use a permanent blind:

1. On an inland area; or

2. Along the Kentucky Lake shoreline of Land Between the Lakes.

(f) A person hunting waterfowl shall remove decoys and personal items daily.

(22) Obion Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(23) Ohio River Islands WMA.

(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to the power line crossing at approximately river mile 911.5.

(b) Stewart Island shall be closed to public access from October 15 through March 15.

(c) Shooting hours shall be one-half (1/2) hours before sunrise until 2 p.m.

(d) A person shall not enter a hunting area prior to 4 a.m. daily.

(24) Peabody WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) The following areas, as posted by signs, shall be closed to the public from October 15 through March 15:

1. The Sinclair Mine area, bounded by Hwy 176, the haul road, and Goose Lake Road; and

2. The Ken area, bounded by Wysox Road, H2 Road, H1 Road, and H6 Road.

(25) Pioneer Weapons WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(26) Robinson Forest WMA. The main block of the WMA shall be closed to waterfowl hunting.

(27) Sloughs WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall exit the area by 2 p.m. during the regular waterfowl season.

(d) On the Jenny Hole-Highlands Creek and Grassy Pond Powell's Lake units, a person hunting waterfowl shall:

1. Hunt:

a. From a department blind;

b. Within twenty-five (25) yards of a hunt site; or

c. No closer than 200 yards of another hunting party; and

2. Remove decoys and personal items from the area on a daily basis.

(e) If the Ohio River reaches a level that requires boat access, a waterfowl hunter:

1. May hunt from a boat without regard to department blinds; and

2. Shall not hunt closer than 200 yards from another boat.

(f) If hunting waterfowl on the Crenshaw and Duncan Tracts of the Sauerheber Unit:

1. A person shall not hunt on a Tuesday or Wednesday;

2. A person shall hunt from a blind assigned by the department through a drawing as established in Section 5 of this administrative regulation;

3. [2.] A person may occupy a permitted blind if not claimed by

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the permittee within one (1) hour before sunrise;

4.[3.] A person shall not possess more than fifteen (15) shotgun shells, except that the shotgun shell possession limit shall be twenty-five (25) if:

- a. The daily bag limit for ducks is greater than three (3); and
- b. The daily bag limit for Canada goose is greater than or equal to two (2);

5.[4.] If under eighteen (18) years of age, a person shall be accompanied by an adult; and

6.[5.] The waterfowl blind for a mobility-impaired person shall be open to the public if the permit holder or another mobility-impaired person has not claimed the blind on that day by one (1) hour before sunrise.

(g) The Crenshaw and Duncan II tracts of the Sauerheber Unit shall be closed to hunting except for:

1. Waterfowl from November 1 through March 15; and
2. The modern gun deer season.

(h) The remainder of the Sauerheber Unit shall be closed to the public from November 1 through March 15.

(i) A hunter drawn to hunt Sloughs WMA through a preseason draw shall submit a completed Sloughs WMA Waterfowl Hunter Survey Report at the conclusion of the hunt or shall be ineligible to participate in the waterfowl blind or quota draw the following year.

(28) South Shore WMA.

(a) The WMA shall be closed to hunting from November 15 through January 15, except for waterfowl and dove hunting.

(b) A hunter shall use a department blind.

(c) A department blind shall be available daily on a first-come, first-served basis.

(29) Taylorsville Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(30) Yatesville Lake WMA. The following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:

(a) The Greenbrier Creek embayment; and

(b) The lake area north from the mouth of the Greenbrier Creek embayment to the dam, including the island.

(31) Yellowbank WMA. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(32) J.C. Williams WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

Section 5. Ballard WMA and Sloughs WMA. (1) A person applying to hunt waterfowl on Ballard WMA or the Sauerheber Unit of Sloughs WMA shall:

(a) Apply by:

1. Calling 1-877-598-2401 and completing the telephone application process; or

2. Completing the online Ballard or Sloughs Waterfowl Quota Hunt Form process on the department's Web site at fw.ky.gov;

(b) Apply from September 1 through September 30;

(c) Pay a three (3) dollar application fee for each application; and

(d) Not apply more than one (1) time for each hunt.

(2) A person drawn to hunt may bring up to three (3) additional hunters.

(3) A person shall be declared ineligible to hunt in department waterfowl quota hunts during the remaining portion of the waterfowl season and declared ineligible to apply for any department quota hunt the following year if the hunter violates state or federal regulations while waterfowl hunting on WMAs that have a preseason or daily drawing.

Section 6. State Parks. (1) Waterfowl hunting shall be prohibited, except there shall be an open waterfowl hunt December

13 through January 31 on designated areas of state parks at:

- (a) Barren River;
- (b) Grayson Lake;
- (c) Greenbo Lake;
- (d) Lake Barkley;
- (e) Lincoln Homestead;
- (f) Nolin Lake;
- (g) Paintsville Lake;
- (h) Pennyrite Lake;
- (i) Rough River Lake; and
- (j) Yatesville Lake.

(2) Hunters shall check in each day at the front desk of the state park or a designated check-in location on days that the park office is not open.

(3) During check-in hunters shall be provided a map showing designated areas of the park that are open to waterfowl hunting.

(4) Hunters shall check out each day at the front desk of the state park or a designated check-out location on days that the park office is not open.

Section 7. Youth-Mentor and Mobility-Impaired Waterfowl Hunts. (1) There shall be youth-mentor waterfowl hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries each Saturday and Sunday in January.

(2) There shall be a mobility-impaired waterfowl hunt at Minor Clark Fish Hatchery that is held concurrently with each youth-mentor hunt.

(3) A youth or mobility-impaired person shall register in advance and carry a department provided postcard notification on the day of the hunt.

(4) A mobility-impaired person shall also submit a mobility-impaired access permit pursuant to 301 KAR 3:026.

(5) Each youth shall be accompanied by an adult who is eighteen (18) years or older.

(6) Each youth shall not be accompanied by more than one (1) adult.

(7) One (1) adult may accompany two (2) youths.

(8) A mobility-impaired hunter may be accompanied by no more than one (1) assistant who may also hunt.

(9) A person shall:

(a) Hunt from an established blind; and

(b) Not change blinds.

(10) A blind shall not be used by more than four (4) hunters.

(11) A person shall only discharge a firearm from a blind.

(12) A person shall not possess more than fifteen (15) shotshells.

(13) A waterfowl hunter, mentor, or assistant shall immediately retrieve downed birds.

(14) A person shall encase a firearm if traveling to and from a blind.

(15) A hunter shall:(a) Cease hunting by noon; and

(b) Exit the area by 1 p.m.

(16) All decoys and equipment shall be removed at the end of each day's hunt.

(17) A hunter shall report harvest by depositing a completed hunt permit at the designated location.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Sloughs WMA Waterfowl Hunter Survey Report", January 2014; and

(b) "Ballard or Sloughs Waterfowl Quota Hunt Form", January 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: May 3, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

CONTACT PERSON: Mark Cramer, Department of Fish and

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Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons, bag limits and requirements on public lands within federal migratory bird hunting frameworks established in 50 C.F.R. Part 20 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2016-2017 waterfowl hunting requirements on public lands in accordance with the USFWS and Department management objectives.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to establish hunting season dates, bag limits and other hunting requirements. KRS 150.360 authorizes the department to restrict methods and hunting hours for taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation assists the above statutes by managing waterfowl populations and hunting opportunity consistent with state and national management requirements and strategies.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment closes Ballard WMA to hunting on Christmas Eve and the Crenshaw and Duncan tracts of Sloughs WMA to hunting on Tuesdays and Wednesdays.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide quality public hunting opportunity with minimal area use conflict that is consistent with meeting state and federal waterfowl management objectives.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new of by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendments in season dates and hunting requirements will be published in the fall waterfowl hunting guide and on the department's website. Hunters will need to comply with all applicable amendments to the hunting seasons.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional or amended costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be continued opportunity for quality waterfowl hunting on public areas.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: This administrative regulation change will not result in any additional cost for the Department to administer initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase any other fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: This administrative regulation does not establish any fees directly or increase fees indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Wildlife Division and Law Enforcement Division.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation amendment for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation amendment in subsequent years.

(c) How much will it cost to administer this program for the first year? No new costs will be incurred in the administration of this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred in the administration of this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession

limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

**STATEMENT OF EMERGENCY
301 KAR 2:225E**

This emergency administrative regulation establishes season dates, limits, shooting hours and other requirements for hunting waterfowl on public lands. Waterfowl hunting season frameworks are set annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons shall do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. States must supply season selections for publication in the Federal Register less than 8 weeks after the final frameworks for migratory bird hunting regulations are published in the federal register. Once Kentucky's season selections are published in the Federal Register, there is no opportunity for revisions. An ordinary administrative regulation will not suffice because the time provided by the USFWS is not adequate for the normal regulatory process. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

GREGORY K. JOHNSON, Commissioner
MATTHEW G. BEVIN, Governor

**TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Emergency Amendment)**

301 KAR 2:225E. Dove, wood duck, teal, and other migratory game bird hunting.

RELATES TO: KRS 150.330, 150.340, 150.603
STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21
EFFECTIVE: May 11, 2016
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, ~~and~~ to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes the requirements for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Dove" means mourning dove or white-winged dove.

(2) "Migratory game bird" means mourning dove, white-winged dove, wood duck, teal, Canada goose, common gallinule, woodcock, snipe, purple gallinule, Virginia rail, or sora rail.

(3) "Teal" means green-winged teal, blue-winged teal, or cinnamon teal.

(4) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Season Dates. (1) A person shall not hunt a migratory game bird except during a season established in this administrative regulation.

(2) The ~~following~~ seasons established in paragraphs (a) through (g) of this subsection shall apply to migratory bird hunting:

- (a) Dove, beginning on:
1. September 1 for fifty-six (56) consecutive days;
 2. Thanksgiving Day for eleven (11) consecutive days; and
 3. The Saturday before Christmas for twenty-three (23) consecutive days;

(b) Woodcock, beginning on the fourth Saturday in October~~November—1~~ for forty-seven (47)~~forty-five—(45)~~ consecutive days, except that the season shall be closed during the first two (2) days of modern gun deer season, as established in 301 KAR 2:172;

- (c) Snipe, beginning on:
1. The third Wednesday in September for forty (40) consecutive days; and
 2. Thanksgiving Day for sixty-seven (67) consecutive days;

(d) Wood duck, beginning on the third Saturday in September for five (5) consecutive days;

(e) Teal, beginning on the third Saturday in September for nine (9) consecutive days;

(f) Virginia rail, sora rail, common gallinule, and purple gallinule, beginning on September 1 for seventy (70) consecutive days; and

(g) Canada goose, beginning September 16~~1~~ for fifteen (15) consecutive days except that the following areas, as established in 301 KAR 2:224, shall be closed:

1. Public land in the Ballard Zone;
2. Public land in the West-Central Goose Zone; and
3. The Northeast Goose Zone.

Section 3. Bag and Possession Limits. (1) A person shall not exceed the ~~following~~ limits established in paragraphs (a) through (h) of this subsection:

- (a) Dove:
1. Daily limit of fifteen (15); and
 2. Possession limit of forty-five (45).

(b) Eurasian collared dove: No limit, except that a hunter, if in the field or during transport, shall keep one (1) of the parts established in subparagraphs 1. and 2. of this paragraph~~following~~ attached to the bird:

1. The head; or
2. A fully-feathered wing.

(c) Woodcock:

1. Daily limit of three (3); and
2. Possession limit of nine (9).

(d) Snipe:

1. Daily limit of eight (8); and
2. Possession limit of twenty-four (24).

(e) Virginia and sora rail, singly or in aggregate:

1. Daily limit of twenty-five (25); and
2. Possession limit of seventy-five (75).

(f) Common and purple gallinule, singly or in aggregate:

1. Daily limit of three (3); and
2. Possession limit of nine (9).

(g) Wood duck and teal:

1. Daily limit of six (6), which shall not include more than two (2) wood ducks; and
2. Possession limit of eighteen (18), which shall not include more than six (6) wood ducks.

(h) Canada goose:

1. Daily limit of five (5); and

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2. Possession limit of fifteen (15).

(2) A hunter who possesses a migratory game bird other than a dove, in the field or during transport, shall keep one (1) of the parts established in paragraphs (a) and (b) of this subsection attached to the bird:

- (a) The head; or
- (b) A fully-feathered wing.

Section 4. Shooting Hours. A person shall not take a migratory game bird except during the times established in this section. (1) If hunting dove on WMA land, a person shall hunt:

(a) Between 11 a.m. and sunset during the September and October portion of the season, as established in Section 2 of this administrative regulation; and

(b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(2) If hunting dove on private land, a person shall hunt:

(a) Between 11 a.m. and sunset on September 1; and

(b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(3) Other species listed in this administrative regulation shall be taken between one-half (1/2) hour before sunrise and sunset.

Section 5. Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:

(1) Longer than three and one-half (3 1/2) inches; or

(2) Containing:

(a) Lead shot;

(b) Shot not approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21 for waterfowl hunting; or

(c) Shot larger than size "T".

Section 6. Hunter Orange. A person shall be exempt from hunter orange requirements pursuant to 301 KAR 2:132 and 2:172 if:

(1) Hunting waterfowl or doves; or

(2) Accompanying a person hunting waterfowl or doves.

Section 7. Exceptions to Statewide Migratory Game Bird Seasons on Specified Wildlife Management Areas. (1) A person shall not:

(a) Hunt wood duck or teal on an area closed to waterfowl hunting as established in 301 KAR 2:222;

(b) Hunt in an area marked by a sign as closed to hunting; or

(c) Enter an area marked by a sign as closed to the public.

(2) A person hunting dove on any of the following areas shall only use or possess nontoxic shot approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21:

(a) Ballard WMA;

(b) Boatwright WMA;

(c) Doug Travis WMA;

(d) Duck Island WMA;

(e) Kaler Bottoms WMA;

(f) Kentucky River WMA;

(g) Ohio River Islands WMA;

(h) Sloughs WMA;

(i) South Shore WMA;

(j) Yatesville Lake WMA; and

(k) A WMA wetland management unit that is posted by sign.

(3) At Ballard WMA, a person shall not hunt:

(a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after October 13; or

(b) Woodcock.

(4) In the Swan Lake Unit of Boatwright WMA, a person shall not hunt:

(a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after October 13; or

(b) Woodcock.

(5) At Miller Welch - Central Kentucky WMA, a person shall not hunt:

(a) Dove or snipe after October 13; or

(b) Woodcock.

(6) At Grayson Lake WMA, a person shall not hunt:

(a) Within three-quarters (3/4) of a mile from the dam including the no-wake zone of the dam site marina;

(b) On Deer Creek Fork; or

(c) On Camp Webb property or the state park, except for youths drawn for any department quota dove hunt on Camp Webb property in September.

(7) At Land Between the Lakes National Recreation Area, a person shall not hunt a migratory game bird between the last Saturday in September and November 30.

(8) At West Kentucky WMA, a person shall not hunt Canada geese during the September season.

(9) At Yatesville Lake, the following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:

(a) The Greenbrier Creek embayment; and

(b) The lake area north of the mouth of the Greenbrier Creek embayment to the dam, including the island.

(10) At Robinson Forest WMA, a person shall not hunt a migratory game bird on the main block of the WMA.

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: May 3, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS). In addition, it establishes requirements for the hunting of migratory birds.

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to establish the 2016–2017 migratory bird seasons in accordance with the USFWS.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By establishing the migratory bird hunting seasons and area specific requirements, this administrative regulation maintains and manages migratory game bird conservation efforts consistent with national and international management goals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the start of woodcock season from the November first to the 4th Saturday in October and will close the woodcock season for the opening weekend of modern gun deer season. It will also shift the early Canada goose season to begin on September 16 rather than September 1. All these changes are consistent with the long-term Mississippi Flyway and continental management efforts and are within the USFWS required frameworks.

(b) The necessity of the amendment to this administrative regulation: The necessity of the amendment is to optimize Canada goose and woodcock hunting opportunity by adjusting the season structure.

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(c) How the amendment conforms to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: There are approximately 40,000 migratory bird hunters and 550 woodcock hunters in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Goose hunters will see the season shift from the first 2 weeks of September to the latter two weeks of September. Woodcock hunters will see the season shift earlier from the November first open to a fourth Saturday in October open. They will also not be allowed to hunt the opening weekend of modern gun deer season.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be increased opportunity to hunt migratory game birds during the optimum season structure.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation change will result in no initial change in administrative cost to the Department.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment. It will not be necessary to increase any other fees or increase funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? Tiering was not applied. The same requirements and limits apply to all migratory bird hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No

revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

STATEMENT OF EMERGENCY
401 KAR 31:040E

This emergency administrative regulation is necessary in accordance with KRS 224.50-130 to more clearly delineate the risks associated with the wastes resulting from the treatment of the nerve and blistering agents as a measure of protection of human health and the environment. In addition, conformance with KRS 224.46-510(3) requires the cabinet to be identical with the list promulgated by the Environmental Protection Agency and establish classes or categories of hazardous waste reflecting the relevant degree of hazardous consistent with the Resource Conservation Recovery Act. Without the amendment, the state would risk noncompliance with federal funding mandates potentially leading to a loss of funding. An ordinary administrative regulation would not allow the agency sufficient time to implement measures to allow the facility to implement the changes to meet the deadlines of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical

Weapons and on their Destruction. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
CHARLES G. SNAVELY, Secretary

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management
(Emergency Amendment)**

401 KAR 31:040E. Lists of hazardous wastes.

RELATES TO: KRS Subchapters 224.1[224.04], 224.40, 224.43, 224.46, 224.50-130, 224.99, 40 C.F.R. 261 Subpart D
STATUTORY AUTHORITY: KRS 224.10-100, 224.46-510(3), 224.46-530, 224.50-130

EFFECTIVE: April 26, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.46-510(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This administrative regulation establishes the lists of hazardous wastes for Kentucky and is equivalent to federal standards established in 40 C.F.R. 261 Subpart D, except for the addition of Section 6[7] of this administrative regulation, which contains nerve and blister agents as required by KRS 224.50-130. This administrative regulation is different from, but not more stringent than, the federal counterpart in that some internal cross-references within 40 C.F.R. are replaced with Kentucky-specific cross-reference citations to Title 401 KAR. If not specifically replaced in an administrative regulation, internal federal cross-references are as established in 40 C.F.R.

Section 1. General Information. (1) Except as provided in this section, general information shall be as established in 40 C.F.R. 261.30[The subject matter shall be governed by 40 C.F.R. 261.30, effective July 1, 2005].

(2)(a) The citation to Section 3010 of RCRA in 40 C.F.R. 261.30[the federal regulation referenced in subsection (1) of this Section] shall be replaced with the requirement established in paragraph (b) of this subsection.

(b) After promulgation of an administrative regulation identifying a substance by its characteristics or listing as hazardous waste subject to 401 KAR Chapters 31 through 44, any person generating or transporting a substance or owning or operating a facility for treatment, storage, disposal, or recycling of the substance shall register by submitting to the cabinet a Notification of Hazardous Waste Activity, DEP 7037, incorporated by reference in 401 KAR 32:010, Section 4. The registration shall be filed within ninety (90) days after promulgation or revision of the administrative regulation unless another notification date is specified in the administrative regulation[KRS 224.46-510].

(3) The citation to 40 C.F.R. 260.20 in 40 C.F.R. 261.30 shall be replaced with 401 KAR 31:035, Section 1.

(4) The citation to 40 C.F.R. 260.22 in 40 C.F.R. 261.30 shall be replaced with 401 KAR 31:035, Section 3.

(5) The citation to 40 C.F.R. 261.31 in 40 C.F.R. 261.30 shall be replaced with Section 2 of this administrative regulation.

(6) The citation to 40 C.F.R. 261.32 in 40 C.F.R. 261.30 shall be replaced with Section 3 of this administrative regulation.

(7) The citation to 40 C.F.R. 261.5 in 40 C.F.R. 261.30 shall be replaced with 401 KAR 31:010, Section 5.

(8) The citations to 40 C.F.R. parts 262 through 265, 267, 268, and 270 in 40 C.F.R. 261.30 shall be replaced with 401 KAR Chapters 32 through 35, 41, 37, and 38, respectively.

Section 2. Hazardous Wastes from Nonspecific Sources. (1) Except as provided in this section, hazardous wastes from nonspecific sources shall be as established in 40 C.F.R. 261.31[The subject matter shall be governed by 40 C.F.R. 261.31, effective July 1, 2005].

(2) The citation to 40 C.F.R. 260.20 in 40 C.F.R. 261.31 shall

be replaced with 401 KAR 31:035, Section 1.

(3) The citation to 40 C.F.R. 260.22 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 31:035, Section 3.

(4) The citation to 40 C.F.R. 261.31 and 40 C.F.R. 261.31(b)(2) in 40 C.F.R. 261.31 shall be replaced with this section.

(5) The citation to 40 C.F.R. 261.32 in 40 C.F.R. 261.31 shall be replaced with Section 3 of this administrative regulation.

(6) The citation to 40 C.F.R. 264.301 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 34:230, Section 2.

(7) The citation to 40 C.F.R. 265.301 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 35:230, Section 2.

(8) The citation to 40 C.F.R. 261.35 in 40 C.F.R. 261.31 shall be replaced with Section 5 of this administrative regulation.

(9) The citation to 40 C.F.R. 258.40 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 48:070 and 48:080.

Section 3. Hazardous Waste from Specific Sources. (1) Except as provided in this section, hazardous waste from specific sources shall be as established in 40 C.F.R. 261.32[The subject matter shall be governed by 40 C.F.R. 261.32, effective July 1, 2005].

(2) The citation to 40 C.F.R. 260.20 in 40 C.F.R. 261.32 shall be replaced with 401 KAR 31:035, Section 1.

(3) The citation to 40 C.F.R. 260.22 in 40 C.F.R. 261.32 shall be replaced with 401 KAR 31:035, Section 3.

(4) The citation to 40 C.F.R. 258.40 in 40 C.F.R. 261.32 shall be replaced with 401 KAR 48:070 and 48:080.

Section 4. Discarded Commercial Chemical Products, Off-specification Species, Container Residues, and Spill Residues Thereof. (1) Except as provided in this section, discarded commercial chemical products, off-specification species, container residues, and spill residues thereof shall be as established in 40 C.F.R. 261.33[The subject matter shall be governed by 40 C.F.R. 261.33, effective July 1, 2005].

(2) The citation to 40 C.F.R. 261.2(a)(2)(i) in 40 C.F.R. 261.33 shall be replaced with 401 KAR 31:010, Section 2.

(3) The citation to 40 C.F.R. 261.7(b) in 40 C.F.R. 261.33 shall be replaced with 401 KAR 31:010, Section 7.

(4) The citation to 40 C.F.R. 261.5 and 40 C.F.R. 261.5(a) and (g) in 40 C.F.R. 261.33 shall be replaced with 401 KAR 31:010, Section 5.

Section 5. Deletion of Certain Hazardous Waste Codes Following Equipment Cleaning and Replacement. (1) Except as provided in this section, deletion of certain hazardous waste codes following equipment cleaning and replacement shall be as established in 40 C.F.R. 261.35[The subject matter shall be governed by 40 C.F.R. 261.35, effective July 1, 2005].

(2) The citation to 40 C.F.R. 261.35 in 40 C.F.R. 261.35 shall be replaced with this section.

Section 6. [Comparable Syngas Fuel Exclusion. (1) The subject matter shall be governed by 40 C.F.R. 261.38, effective July 1, 2005.

(2) The reference in 40 C.F.R. 261.38 to 40 C.F.R. 261.28(c)(10) is incorrect. The references shall be listed as 40 C.F.R. 261.38(c)(10).

Section 7. [Additional Requirement Concerning Nerve and Blistering Agents. The [following] substances in Table 1 are listed [as] hazardous wastes in the Commonwealth of Kentucky.

Table 1	
Ky. Hazardous Waste No.	Substance
N001	GB (isopropyl methyl phosphonofluoridate [phosphonofluoridate] and related compounds (H)
N002	VX (0-ethyl-S-(2-diisopropyl-aminoethyl)-methyl phosphonothiolate) and related compounds (H)
N003	H (bis (2-chloroethyl) sulfide) and related compounds (H)
N101	Uncontaminated M67 Rocket Motor Assembly.

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	<u>Propellant Component of the Rocket Motor, Shipping Firing Tubes, and End-Caps associated with GB munitions</u>
<u>N102</u>	<u>Uncontaminated M67 Rocket Motor Assembly, Propellant Component of the Rocket Motor, Shipping Firing Tubes, and End-Caps associated with VX munitions</u>
<u>N201</u>	<u>Metal Parts Treater Residue associated with GB munitions or related wastes</u>
<u>N202</u>	<u>Metal Parts Treater Residue associated with VX munitions or related wastes</u>
<u>N203</u>	<u>Static Detonation Chamber Residue and Ash associated with H munitions</u>
<u>N301</u>	<u>Agent Hydrolysate associated with GB munitions</u>
<u>N302</u>	<u>Agent Hydrolysate associated with VX munitions</u>
<u>N401</u>	<u>Energetic Hydrolysate associated with GB munitions</u>
<u>N402</u>	<u>Energetic Hydrolysate associated with VX munitions</u>
<u>N501</u>	<u>Aluminum Precipitate associated with treated GB wastes</u>
<u>N502</u>	<u>Aluminum Precipitate associated with treated VX wastes</u>
<u>N601</u>	<u>Reverse Osmosis Reject or Supercritical Water Oxidation Effluent associated with treated GB wastes</u>
<u>N602</u>	<u>Reverse Osmosis Reject or Supercritical Water Oxidation Effluent associated with treated VX wastes</u>
<u>N701</u>	<u>Lab Wastes associated with treated GB wastes</u>
<u>N702</u>	<u>Lab Wastes associated with treated VX wastes</u>
<u>N703</u>	<u>Lab Wastes associated with treated H wastes</u>

CHARLES G. SNAVELY, Secretary
 APPROVED BY AGENCY: April 19, 2016
 FILED WITH LRC: April 26, 2016 at 9 a.m.
 CONTACT PERSON: Louanna Aldridge, Division of Waste Management, 200 Fair Oaks, Second Floor, Frankfort, Kentucky 40601, phone (502) 564-6716, fax (502) 564-4049, email Louanna.Aldridge@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Louanna Aldridge

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the lists of hazardous wastes for Kentucky and is equivalent to federal standards established in 40 C.F.R. 261 Subpart D, except for the addition of nerve and blister agents as required by KRS 224.50-130.

(b) The necessity of this administrative regulation: This administrative regulation establishes hazardous waste codes to appropriately characterize the risk levels of the waste for treatment, handling, and transportation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes by setting forth the lists of hazardous wastes as required by KRS 224.46-510(3) and includes the additional wastes required to be listed by KRS 224.50-130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation codifies hazardous waste codes as required by KRS 224.46-510(3).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will add additional hazardous waste codes for the treated wastes of nerve and blistering agents. This administrative regulation amendment references the changes to 40

C.F.R. 261.31 modifying the F019 listing to allow wastewater treatment sludge to be disposed of as a nonhazardous waste. Due to the removal of 40 C.F.R. 261.38, the comparable syngas fuel exclusion, the reference was also removed from this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to more clearly delineate the risks associated with the wastes from the treatment of the nerve and blistering agents. In addition, the regulation references the F019 listing modification to be not more stringent than the federal regulation, and the removal of the comparable syngas fuel exclusion to be not less stringent than the federal regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statutes by codifying new waste codes to address the treated nerve and blistering agent waste streams as authorized by KRS 224.50-130. The amendment to F019 and the removal of the comparable syngas fuel exclusion are equivalent with the federal regulation counterparts.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will codify the new hazardous waste codes needed for appropriate classification to manage and transport the treated nerve and blistering agent waste streams. The amendment to F019 and the removal of the comparable syngas fuel exclusion are equivalent with the federal regulation counterparts.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the Blue Grass Army Depot and any entity that must treat or transport the treated nerve and blistering agent waste streams. The amendment to F019 will affect the automotive industry. The removal of the comparable syngas fuel exclusion will affect any facility that is currently treating, storing, disposing or otherwise managing hazardous wastes previously excluded from Resource Conservation and Recovery Act.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Bluegrass Army Depot will have to identify waste streams based on the newly codified hazardous waste codes to determine proper treatment, transportation, storage and disposal of the wastes. The automotive industry will no longer have to dispose of the wastewater treatment sludge as a listed hazardous waste per the amended definition of F019. Any facility operating under the comparable syngas fuel exclusion will have to determine if the fuel being used meets the definition of a hazardous waste and follow the appropriate requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The additional hazardous waste codes and the amendment to F019 will reduce transportation and disposal costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operating costs of the facilities will be reduced for the additional hazardous waste codes and the amendment to F019. In addition, the Bluegrass Army Depot will be enabled to complete training and Operational Readiness under the current construction schedule to comply with the International Treaty.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no cost to the administrative body initially.

(b) On a continuing basis: There will be no cost to the administrative body on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation and enforcement of this administrative regulation will be funded by the federal ACWA (Assembled Chemical Weapons Alternatives) and RCRA grant.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require increases in fees or funding to implement this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not increase any fees either directly or indirectly for the additional hazardous waste codes or the amendment to F019.

(9) TIERING: Is tiering applied? This administrative regulation does not apply tiering as it is applied equally throughout the commonwealth.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 3006 of the Resource Conservation and Recovery Act (RCRA) requires the lists of hazardous wastes in this administrative regulation to be equivalent to the list promulgated by the U.S. Environmental Protection Agency (EPA) in 40 C.F.R. 261 in order to receive state authorization.

2. State compliance standards. KRS 224.10-100, KRS 224.46-505, KRS 224.50-130, and KRS 224.46-530.

3. Minimum or uniform standards contained in the federal mandate. Section 3006 of RCRA and 40 C.F.R. 261.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation imposes stricter requirements than those required by the federal mandate for nerve and blistering agents required to be listed by KRS 224 50-130.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. KRS 224.50-130 requires the cabinet to regulate chemical munitions as hazardous waste. The following compounds are established as chemical munitions and therefore listed hazardous wastes in KRS 224.50-130: GB (isopropyl methyl phosphonofluoridate), VX (O-ethyl-S-(2-diisopropylaminoethyl)methyl phosphonothiolate), and H (bis(2-chloroethyl)sulfide), and any related compounds. Therefore, this administrative regulation imposes a stricter standard than 40 C.F.R. 261 by including the additional listed wastes as required by KRS 224.50-130.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation may impact any unit of state or local government that generates, treats, transports, stores or disposes of a listed hazardous waste.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.46-510(3) requires the cabinet to identify the characteristics of and to list hazardous wastes as established by EPA pursuant to RCRA. Section 3006 of RCRA requires these lists to be equivalent to the list promulgated by the EPA in 40 C.F.R. 261 in order to receive state authorization. KRS 224.50-130 requires the cabinet to include the additional nerve and blistering agents to the listed hazardous waste codes.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not affect the expenditures or revenues of a state or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for the state or local government for the first year.

(b) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for the state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not have any additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not have any additional costs for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: This administrative regulation will not generate additional revenue or expenditures for the administrative body.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Sales and Excise Tax
(As Amended at ARRS, May 10, 2016)

103 KAR 3:050. Miscellaneous Taxes Forms manual.

RELATES TO: KRS 42.470, 61.870-61.884, 131.020-131.130, 131.155, 131.170, 131.181, 131.183, 131.190, 131.340, 131.500, 131.510, 131.540, 132.020, 132.130-132.180, 132.190, 132.200, 132.220-132.270, 132.290-132.320, 132.450, 132.487, 132.510, 132.820, 132.990, 133.045, 133.110, 133.120, 133.130, 133.240, 134.420, 134.580, 134.590, 134.800-134.830, 135.010, 135.020, 135.050, 136.020, 136.050, 136.070, 136.071, 136.0704, 136.090, 136.100, 136.115-136.180, 136.1873, 136.310-136.335, 136.377, 136.392, 136.545, 136.575, 136.600-136.660, 137.130, 137.160, 138.165, 138.195, 138.210-138.885, 140.010-140.360, 142.010-142.404, 143.030, 143.037, 143.040, 143.050, 143.060, 143.085, 143.990, 143A.010, 143A.030, 143A.035, 143A.037, 143A.080, 143A.090, 143A.100, 143A.991, 154.22-50-154.22-070, 154.23-010, 154.24-110, 154.24-130, 154.26-090, 154.28-090, 154.34-010, 155.170, 160.613-160.617, 209.160, ~~224.1-310~~224.01-310, 224.60, 234.321, 234.370, 243.710-243.884, 248.756, 299.530, 304.4-030, 304.11-050, 304.49-220, 351.175, 395.470, 413.120

STATUTORY AUTHORITY: KRS 131.130(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Taxes, Telecommunications Excise and Gross Revenues Tax, Severance Taxes, and Property Taxes.

Section 1. Alcoholic Beverage Tax. (1) Revenue Form 73A504, Acknowledgment of Tax Liability on Imported Alcoholic Beverages, shall be used by persons importing distilled spirits, wine, and malt beverages into Kentucky through the United States Bureau of Customs for personal consumption in this state to acknowledge liability for the alcoholic beverage excise tax.

(2) Revenue Form 73A525, Monthly Report of Distillers, Rectifiers or Bottlers, shall be used by distillers, rectifiers, or bottlers of distilled spirits to report liability for distilled spirits excise tax and wholesale sales tax.

(3) Revenue Form 73A526, Wholesaler's Monthly Distilled Spirits Tax Report, shall be used by wholesalers of distilled spirits to report liability for distilled spirits excise tax, wholesale sales tax, and case sales tax.

(4) Revenue Form 73A527, Wholesaler's List of Individual Spirits Shipments Acquired, shall be used by wholesalers of distilled spirits to itemize monthly receipts of distilled spirits from all sources.

(5) Revenue Form 73A529, Consignor's Report of Alcoholic Beverages Shipped, shall be used by consignors of distilled spirits and wine to report trafficking in alcoholic beverages during the previous month.

(6) Revenue Form 73A530, Consignor's Report of Alcoholic Beverages Shipped, shall be used by consignors of distilled spirits and wine to report trafficking in alcoholic beverages during the previous month.

(7) Revenue Form 73A531, Transporter's Report of Alcoholic Beverages Delivered, shall be used by transporters of distilled spirits, wine, and malt beverages to report shipments of alcoholic beverages delivered into the state during the previous month.

(8) Revenue Form 73A535, Report of Destruction of Alcoholic Beverages, shall be used by governmental officials to certify

quantities of tax-paid alcoholic beverages no longer suitable for consumption that are destroyed in the official's presence.

(9) Revenue Form 73A575, Wholesaler's Monthly Wine Tax Report, shall be used by wine wholesalers to report liability for wine excise tax and wine wholesale sales tax.

(10) Revenue Form 73A576, Vintner's Wine Report, shall be used by vintners to report liability for wine excise tax and wine wholesale sales tax.

(11) Revenue Form 73A577, Wholesaler's List of Individual Wine Shipments Acquired, shall be used by wine wholesalers to report shipments of wine received during the previous month.

(12) Revenue Form 73A626, Brewer's Monthly Report Schedule, shall be used by brewers of malt beverages to report sales and distribution of malt beverages into Kentucky.

(13) Revenue Form 73A627, Beer Distributor's Monthly Report, shall be used by beer distributors to report shipments of malt beverages received during the previous month.

(14) Revenue Form 73A628, Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax ~~and Wholesale Sales Tax~~ Report, shall be used by distributors of malt beverages to report liability for malt beverage excise tax and malt beverage wholesale sales tax. Microbreweries shall use the form to report malt beverage excise tax.

(15) Revenue Form 73A628(I), Instructions for Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax Report, shall be used by distributors and microbrewers of malt beverages to file Revenue Form 73A628.

(16) Revenue Form 73A629, Beer Distributor's Sales to Federal Agencies, shall be used by beer distributors to report shipments of malt beverages to federal military agencies.

(17) Revenue Form 73A630, ~~ABC~~ Microbrewer's Retail Gross Receipts Report to Distributor, shall be used by microbreweries to report liability for malt beverage wholesale sales~~wholesales~~ tax.

Section 2. Bank Franchise Tax - Required Forms. (1) Revenue Form 73A800, Kentucky Registration Application for Bank Franchise Tax, shall be used by financial institutions which are regularly engaged in business in Kentucky to register for the Kentucky Bank Franchise Tax.

(2) Revenue Form 73A801(P), ~~2015~~2009 Kentucky Bank Franchise Tax Forms and Instructions, shall be the packet used by financial institutions to register for the Kentucky Bank Franchise Tax, to determine the net capital and annual tax due, and to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

(3) Revenue Form 73A801, Bank Franchise Tax Return, shall be used by financial institutions to determine the net capital and Kentucky Bank Franchise Tax due for the calendar year ~~2015~~2009.

(4) Revenue Form 73A802, Application for 90-Day Extension of Time to File Kentucky Bank Franchise Tax Return, shall be used by financial institutions to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

Section 3. Cigarette and Tobacco Tax - Required Forms. (1) Revenue Form 73A181, Application for Cigarette and Tobacco Products Licenses~~Cigarette Licenses and Other Tobacco Product Account Number Application~~, shall be used by persons interested in acting as a cigarette wholesaler, subjobber, vending machine operator, transporter,~~or~~ unclassified acquirer, tobacco products distributor, or retail distributor to apply for the necessary license.

(2) Revenue Form 73A190, Cigarette and Tobacco Products License, shall be used by the Department of Revenue to give evidence to cigarette wholesalers, subjobbers, vending machine operators, transporters,~~and~~ unclassified acquirers, tobacco products distributors, and retail distributors that they have been granted the appropriate license.

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(3) Revenue Form 73A404, Cigarette Tax Stamps Order Form, shall be used by licensed cigarette wholesalers or unclassified acquirers to order cigarette tax stamps.

(4) Revenue Form 73A406, Cigarette Tax Credit Certificate, shall be used by the Department of Revenue to give credit to a licensed cigarette wholesaler or unclassified acquirer for cigarette tax stamps returned or destroyed.

(5) Revenue Form 73A409, Cigarette Evidence/Property Receipt, shall be used by compliance officers and the property owner to acknowledge custody of seized goods.

(6) Revenue Form 73A420, Monthly Report of Cigarette Wholesaler, shall be used by a licensed cigarette wholesaler to report cigarette inventory, tax stamp reconciliation, and liability for cigarette administration and enforcement fee and to report cigarettes that were purchased from manufacturers and importers of cigarettes who did not sign the Master Settlement Agreement (nonparticipating manufacturers).

(7) Revenue Form 73A420(l), Instructions for Monthly Report of Cigarette Wholesaler, shall be used by cigarette wholesalers[and nonparticipating manufacturers] to file Revenue Form 73A420.

(8) Revenue Form 73A421, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff for Inventories as of March 31, 2009, shall be used by cigarette retailers or licensees to report cigarette inventories and the one-time inventory floor tax.

(9) Revenue Form 73A421A, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff, shall be used by cigarette retailers or licensees to report and pay installment two (2) of the one-time inventory floor tax.

(10) Revenue Form 73A421B, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff, shall be used by cigarette retailers or licensees to report and pay installment three (3) of the one-time inventory floor tax.

(11) Revenue Form 73A421W, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff, shall be used by cigarette licensees to report cigarette and stamp inventories and the one-time inventory floor tax.

(12) Revenue Form 73A422, Monthly Report of [Other] Tobacco Products, [and] Snuff, and Chewing Tobacco, shall be used by tobacco[cigarette] licensees to report liability for tobacco products tax, snuff tax, and chewing tobacco tax [gross receipts from other tobacco products, total units of snuff sold, and tax liability].

(13) Revenue Form 73A422(l), Instructions for Monthly Report of Tobacco Products, Snuff, and Chewing Tobacco, shall be used by tobacco products distributors and retail distributors to file Revenue Form 73A422 [Revenue Form 73A423, Monthly Report of Cigarette Papers, shall be used by vendors or wholesalers to file the tax owed on rolling papers sold].

(14) Revenue Form 73A450, Retail Tobacco Inspection Report, shall be used to document information obtained during retail tobacco inspections.

(15) Revenue Form 73B401, Cigarette Tax Credit Claim Wholesaler's Affidavit, shall be signed by a licensed cigarette wholesaler attesting that the reported tax evidence did or did not have the thirty (30) [twenty-seven (27)] cents surtax paid on it.

Section 4. Health Care Provider Tax. (1) Revenue Form 73A060, Health Care Provider Tax Return, shall be used by taxpayers to file the gross revenues and compute the tax for the health care provider tax.

(2) Revenue Form 73A060(l), Instructions - Kentucky Health Care Provider Tax Return, shall be used by the taxpayers to determine if the service they provide is taxable, what tax rate is applicable, and which line to use for reporting.

(3) Revenue Form 73A061, Kentucky Health Care Provider Application for Certificate of Registration, shall be completed by the taxpayer to register for the health care provider tax.

Section 5. Inheritance Tax - Required Forms. (1) ~~Revenue Form 92A101, Kentucky Nonresident Inheritance and Estate Tax Return, shall be used by the personal representative or beneficiary~~

~~of a nonresident estate to establish the inheritance and estate tax due the Commonwealth for dates of death on or after July 1995.~~

~~(2) Revenue Form 92A110, Real Estate Data Report, shall be used by the personal representative or beneficiary of an estate on each piece of real estate to provide a description and valuation of the property for dates of death on July 1, 1995 through June 30, 1998.~~

~~(3) Revenue Form 92A120, Kentucky Resident Inheritance and Estate Tax Return, shall be used by the personal representative or beneficiary of a resident estate to establish the inheritance and estate tax due the Commonwealth for dates of death on or after July 1995.~~

~~(4) Revenue Form 92A120-S, Inheritance and Estate Tax Return - Short Form shall be used by the personal representative or beneficiary of a resident estate to establish the appropriate inheritance and estate tax due the Commonwealth.~~

~~(5) Revenue Form 92A120-X, Kentucky Spousal Inheritance Tax Return, shall be used by the personal representative or beneficiary of a resident estate to establish there is no inheritance and estate tax due the Commonwealth.~~

~~(6) Revenue Form 92A121, Acceptance of Inheritance and Estate Tax Return, shall be sent by the inheritance and estate tax section to the personal representative or beneficiary of an estate to certify that all death taxes due the Commonwealth have been paid.~~

~~(2) [(7)] Revenue Form 92A200, Kentucky Inheritance [and Estate] Tax Return, shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the inheritance [and estate] tax due the Commonwealth.~~

~~(3) [(8)] Revenue Form 92A200P [KT], Kentucky Inheritance and Estate Tax Forms and Instructions, shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the inheritance [and estate] tax due the Commonwealth for deaths occurring on or after January 1, 2005 [July 1, 1998].~~

~~(4) [(9)] Revenue Form 92A201, Kentucky Inheritance Tax Return No Tax Due, shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish that there is no inheritance [and estate] tax due the Commonwealth.~~

~~(5) [(10)] Revenue Form 92A202, Kentucky Estate Tax Return shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the estate tax due the Commonwealth.~~

~~(11) Revenue Form 92A204, Real Estate Valuation Information Form, shall be used by the personal representative or beneficiary of an estate to establish the taxable value of real estate for inheritance tax purposes.~~

~~(6) [(12)] Revenue Form 92A205, Kentucky Inheritance Tax Return (Short Form [Simplified Format]), shall be used by the personal representative or beneficiary of a small or uncomplicated resident or nonresident estate to establish the inheritance [and estate] tax due the Commonwealth.~~

~~(7) Revenue Form 92A300, Affidavit of Exemption, shall be used by the fiduciary or beneficiary of the estate stating that all assets of the estate passed to exempt beneficiaries pursuant to KRS 140.080 or exempt organizations pursuant to KRS 140.060.~~

~~(8) [(13)] Revenue Form 92A928, Election to Defer the Payment of Inheritance Tax through Installments, shall be used by the beneficiary or beneficiaries of an estate to defer the payment of inheritance tax through installments.~~

~~(9) [(14)] Revenue Form 92A929, Notice of Agricultural and Horticultural Inheritance Tax Lien, shall be used to request the county clerk to place a lien on a particular piece of real estate due to the personal representative, on behalf of an estate, electing the use of agricultural or horticultural value.~~

~~(10) [(15)] Revenue Form 92A930, Certificate of Release of Agricultural and Horticultural Inheritance Tax Lien, shall be used by the inheritance and estate tax section to request the county clerk to release the five (5) year lien that guaranteed collection of tax if the terms of the agreement are not met or if the five (5) years have expired.~~

~~(11) [(16)] Revenue Form 92A931, Certificate of Partial Discharge of the Agricultural and Horticultural Inheritance Tax Lien, shall be used by the inheritance and estate tax section to request the county clerk to do a partial release of the five (5) year lien that~~

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guaranteed collection of tax if the terms of the agreement are not met or if the five (5) years have expired.

~~(12)~~~~(17)~~ Revenue Form 92A932, Receipt of Inheritance and Estate Taxes, shall be given to the taxpayer when tax payment is received in the office.

~~(13)~~~~(18)~~ Revenue Form 92A936, Election to Qualify Terminable Interest Property and/or Power of Appointment Property, shall be used by a personal representative or beneficiary to elect to qualify terminable interest property or power of appointment property if proper criteria exists.

~~(14)~~~~(19)~~ Revenue Form 92F001, Inheritance Tax Lien Releases and Inventory of Safe Deposit Boxes, shall be used to access lock boxes without requiring written consent or presence of the Department of Revenue or local PVA official and shall provide a blanket lien release on all property owned by any decedent.

~~(15)~~~~(20)~~ Revenue Form 92F101, A Guide to Kentucky Inheritance and Estate Taxes, shall be used by the general public for information purposes concerning Kentucky inheritance and estate tax.

Section 6. Insurance Tax - Required Forms. (1) Revenue Form 74A100, Insurance Premiums Tax Return, shall be used by domestic and foreign life insurance companies, stock insurance companies other than life, and foreign mutual companies other than life to report liability for domestic and foreign life insurance tax, other than life insurance tax, fire insurance tax and retaliatory taxes and fees.

(2) Revenue Form 74A101, Insurance Premiums Tax Return - Domestic Mutual, Domestic Mutual Fire, or Cooperative and Assessment Fire Insurance Companies, shall be used by domestic mutual, domestic mutual fire or cooperative and assessment fire insurance companies to report liability for premiums tax on amounts paid to authorized and unauthorized reinsurance companies.

(3) Revenue Form 74A105, Unauthorized Insurance Tax Return, shall be used by insurers not authorized to conduct business in the Commonwealth of Kentucky by the Department of Insurance to report liability for insurance premiums tax.

(4) Revenue Form 74A106, Insurance Premiums Tax Return - Captive Insurer, shall be completed by domestic and foreign insurance companies to report captive insurance tax.

(5) Revenue Form 74A110, Kentucky Estimated Insurance Premiums Tax for Calendar Year ~~2016~~~~2015~~~~[2009]~~, shall be used by insurance companies to remit estimated premiums tax payments.

(6) Revenue Form 74A116, Tax Election for Domestic Life Insurance Companies, shall be used by domestic life insurance companies to make an irrevocable election to pay state capital and reserves tax, premiums tax, and the county and city capital and reserves tax or to pay state premiums tax and local government premiums tax.

(7) Revenue Form 74A117, Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer, shall be used by domestic mutual, cooperative and assessment fire insurers to report liability for insurance premium surcharge.

(8) Revenue Form 74A117A, [Annual] Insurance Surcharge Report – Domestic Mutual, Cooperative and Assessment Fire Insurer, shall be used by domestic mutual, cooperative and assessment fire insurers to report liability for insurance premium surcharge.

(9) Revenue Form 74A118, Monthly Insurance Surcharge Report, shall be used by domestic, foreign and alien insurers, other than life and health insurers, to report liability for an insurance premium surcharge.

(10) Revenue Form 74A118A, [Annual] Insurance Surcharge Report, shall be used by domestic, foreign and alien insurers, other than life and ~~health~~~~death~~ insurers, to report liability for an insurance premium surcharge.

Section 7. Legal Process - Required Forms. (1) Revenue Form 73A200, County Clerk's Monthly Report of Legal Process Tax Receipts, shall be used by the county clerks to report the county's

liability for the legal process tax and spouse abuse shelter fund.

(2) Revenue Form 73A201, Quarterly Report of Affordable Housing Trust Fund Fee, shall be used by the county clerks to report the county's liability for the affordable housing trust fund fee.

Section 8. Marijuana and Controlled Substance - Required Forms. (1) Revenue Form 73A701, Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp), shall be used by the Kentucky Department of Revenue to provide persons ordering marijuana and controlled substance tax stamps with the appropriate instructions on affixing the stamps.

(2) Revenue Form 73A702, Notice of Tax Lien KRS 138.870 Marijuana and Controlled Substance Tax, shall be used by law enforcement officials to notify the Kentucky Department of Revenue and county clerks of the seizure of marijuana and other controlled substances.

(3) Revenue Form 73A703, Marijuana or Controlled Substance Stamp Order Form, shall be used by taxpayers to order stamps for marijuana or controlled substances.

Section 9. Motor Fuels - Required Forms. (1) Revenue Form 72A004, Motor Fuels Tax Watercraft Refund Bond, shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the public boat dock refund applicant was not entitled.

(2) Revenue Form 72A005, Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock, shall be used by a public boat dock owner to apply for approval to sell watercraft refund motor fuels.

(3) Revenue Form 72A006, Motor Fuel Tax Refund Application - Public Boat Dock, shall be used by a public boat dock refund applicant to make application for refund of liquid fuel tax on purchases of liquid fuel delivered directly to the fuel tanks attached to the watercraft and used exclusively in watercraft motors.

(4) Revenue Form 72A010, Motor Fuel Tax Refund Permit Holder's Bond, shall be used by an approved surety to establish surety obligation upon the payment of all taxes, penalties, and fines for which the designated refund applicant may become liable under KRS 138.344 to 138.355.

(5) Revenue Form 72A011, Petroleum Storage Tank Environmental Assurance Fee Monthly Report, shall be used by licensed gasoline or special fuels dealers to report and remit monthly petroleum storage tank environmental assurance fee amounts due.

(6) Revenue Form 72A052, Kentucky Motor Fuels Tax Refund Permit, shall be used by the Department of Revenue to issue Kentucky Motor Fuels Tax Refund Permits.

(7) Revenue Form 72A053-A, Application for Refund of Kentucky Motor Fuel Tax Paid on Nonhighway Motor Fuels, shall be used by Kentucky Motor Fuels Tax Refund Permit holders to apply for refund of Kentucky motor fuel tax paid on nonhighway motor fuel.

(8) Revenue Form 72A065, Aviation Gasoline Tax Refund Bond, shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the aviation gasoline refund applicant was not entitled.

(9) Revenue Form 72A066, Application for Refund of Kentucky Tax Paid on Gasoline Used in Operation of Aircraft, shall be used by an aviation gasoline refund applicant to make application for refund of Kentucky tax paid on gasoline used in operation of aircraft.

(10) Revenue Form 72A067, Application for Approval to Receive a Refund of Aviation Motor Fuels, shall be used by aviation gasoline tax refund applicants seeking approval to receive a refund of aviation gasoline tax.

(11) Revenue Form 72A071, Motor Fuels Tax Refund Bond (City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs), shall be used by a surety company authorized to do business in Kentucky to establish surety obligation upon the payment to the Commonwealth of any refunds to which a city and suburban bus, nonprofit bus, senior citizen transportation, or taxicab refund applicant was not entitled.

(12) Revenue Form 72A072, Application for Motor Fuel Refund

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- City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation, and Taxicab Companies, shall be used by refund applicants to make application for refund of Kentucky tax paid on fuel used in the operation of city and suburban bus companies, nonprofit bus companies, senior citizen transportation, and taxicab companies.

(13) Revenue Form 72A073, Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation and Taxicabs, shall be used by qualifying applicants to make application for approval to receive a refund of tax on motor fuels consumed by city and suburban buses, nonprofit buses, senior citizen transportation, and taxicabs.

(14) Revenue Form 72A078, Statement of Claim for Accountable Loss of Motor Fuel, shall be used by licensed gasoline or special fuels dealers to make claim for accountable loss of motor fuel.

(15) Revenue Form 72A089, Licensed Gasoline Dealer's Monthly Report, shall be used by licensed gasoline dealers to report and remit monthly gasoline tax.

(16) Revenue Form 72A098, Transporter's Report of Motor Fuel Delivered, shall be used by licensed transporters to report a summation of monthly motor fuel deliveries.

(17) Revenue Form 72A099, Transporter's Report, shall be used by licensed transporters to report monthly motor fuel deliveries.

(18) Revenue Form 72A110, Certification of Motor Fuels Nonhighway Use, shall be used by qualifying entities to certify the nonhighway use of special fuels. The certification shall be maintained by the licensed special fuels dealer.

(19) Revenue Form 72A135, Application for Kentucky Motor Fuels Tax Refund Permit, shall be used by a person desiring to qualify for a refund of motor fuel excise tax paid for nonhighway use.

(20) Revenue Form 72A138, Licensed Special Fuels Dealer's Monthly Report, shall be used by a licensed special fuels dealer to report the total special fuels gallons received and distributed for a specific monthly period.

(21) Revenue Form 72A161, Monthly Report Liquefied Petroleum Gas Dealer, shall be used by a licensed liquefied petroleum gas dealer to report all gallons of liquefied petroleum gas dispensed into the fuel tanks of licensed motor vehicles for a specific monthly period.

(22) Revenue Form 72A170, Monthly Terminal Report, shall be used by a licensed motor fuels dealers to summarize all Kentucky terminal receipt and disbursement activity for a specific monthly period.

(23) Revenue Form 72A178, Distributor's Schedule of Disbursements, shall be used by motor fuels dealers to report all disbursements for a specific monthly period.

(24) Revenue Form 72A179, Distributor's Schedule of Receipts, shall be used by gasoline and special fuels dealers to report all receipts for a specific monthly period.

(25) Revenue Form 72A180, Schedule 15A-Terminal Operator Schedule of Receipts, shall be used by gasoline and special fuels terminal operators to report all receipts for a specific monthly period.

(26) Revenue Form 72A181, Schedule 15B-Terminal Operator Schedule of Disbursement, shall be used by gasoline and special fuels terminal operators to report all disbursements for a specific monthly period.

(27) Revenue Form 72A300, Tax Registration Application for Motor Fuels License, shall be used by an applicant to register for a gasoline dealer's, special fuels dealer's, liquefied petroleum gas dealer's, motor fuel transporter's, or terminal owner-operator's license.

(28) Revenue Form 72A301, Motor Fuels License Bond, shall be executed by a corporation authorized to transact surety business in Kentucky on behalf of a licensee to insure payment of taxes, penalties, and interest for which a dealer or transporter may become liable.

(29) Revenue Form 72A302, Motor Fuels License, shall be used by the Department of Revenue to issue a license to the

qualified applicant in gasoline, special fuels, motor fuels transporter, or liquefied petroleum gas dealer.

(30) Revenue Form 72A303, Election Application/Cancellation Form, shall be used by gasoline and special fuels dealers to elect to pledge a financial instrument other than a corporate surety bond.

(31) Revenue Form 72A304, Motor Fuel Tax Electronic Filing Application, shall be used by motor fuels dealers to choose an electronic filing method.

Section 10. Motor Vehicle Usage Tax - Required Forms. (1) Revenue Form 71A010, Motor Vehicle Usage Tax - Vehicle Condition Refund Application, shall be used by a taxpayer to apply for a refund of motor vehicle usage tax paid under KRS 138.450(16)~~[138.150(16)]~~ based on the condition of the vehicle.

(2) Revenue Form 71A100, Affidavit of Total Consideration Given for a Motor Vehicle, shall be presented to the county clerk to establish taxable value upon the first registration or transfer of a motor vehicle for motor vehicle usage tax purposes.

(3) Revenue Form 71A101, Motor Vehicle Usage Tax Multi-Purpose Form, shall be presented to the county clerk by a vehicle owner to:

(a) Claim one (1) of several exemptions;

(b) Establish retail price if prescribed by the department; or

(c) Establish retail price of new vehicles with equipment or adaptive devices added to facilitate or accommodate handicapped persons.

(4) Revenue Form 71A102, Questionnaire, shall be completed by selected motor vehicle buyers and sellers providing specific information regarding a vehicle transaction.

(5) Revenue Form 71A174, County Clerk's Adjusted Recapitulation of Motor Vehicle Usage Tax - Weekly Report, shall be submitted to the Department of Revenue by a county clerk as a recapitulation form to list all motor vehicle usage tax receipts, adjusted for corrections and commissions for a given week.

(6) Revenue Form 71A174-A, County Clerk's Recapitulation of Motor Vehicle Usage Tax - Interim Report, shall be submitted to the Department of Revenue by a county clerk to report motor vehicle usage tax collections if an extension of time to file the computer generated weekly recapitulation report is requested.

(7) Revenue Form 71F004, Motor Vehicle Usage Tax - Loaner-Rental Program, shall be used by motor vehicle dealers for instructions on how to register for the Loaner-Rental Program and file monthly reports.

~~(8) Revenue Form 72A007, Affidavit of Nonhighway Use, shall be used by taxpayers attesting that a motor vehicle will not be operated upon Kentucky's public highways.~~

(9) Revenue Form 73A054, Kentucky Application For Dealer Loaner/Rental Vehicle Tax, shall be used by motor vehicle dealers to register to participate in the Loaner/Rental Vehicle Tax program.

~~(9) [(10)]~~ Revenue Form 73A055, Monthly Report For Dealer Loaner/Rental Vehicle Tax, shall be used by motor vehicle dealers to report tax due on vehicles dedicated for use in the Loaner/Rental Vehicle Tax program.

~~(10) [(11)]~~ Revenue Form 73A070, Motor Vehicle Usage Tax Request for Extension of Reports, Deposit and/or ACH Call-in, shall be used by county clerks for extension of daily deposits, daily ACH call-ins or weekly reports.

Section 11. Racing Taxes - Required Form. (1) Revenue Form 73A100, Race Track Pari-Mutuel and Admissions Report, shall be used by race tracks licensed by the Kentucky Horse Racing Commission to report liability for the pari-mutuel tax and to report admissions to the race track.

(2) Revenue Form 73A101, Historical Pari-Mutuel Report, shall be used by race tracks licensed by the Kentucky Horse Racing Commission to report tax liability for pari-mutuel wagering on historical racing.

(3) Revenue Form 73A102, Advanced Deposit Wagering Excise Tax Report, shall be used by all advanced deposit account wagering licensees to report tax liability of amounts wagered through the licensee by Kentucky residents.

Section 12. Transient Room Tax - Required Form. Revenue

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Form 73A850, Transient Room Tax Monthly Return, shall be used by all persons, companies, corporations, groups or organizations doing business as motor courts, motels, hotels, inns, tourist camps, or like or similar accommodations businesses (excluding campgrounds) to report the taxable rent amount and transient room tax liability.

Section 13. Utility Gross Receipts License Tax - Required Forms. (1) Revenue Form 73A901, Utility Gross Receipts License Tax Return, shall be used by UGRLT account number holders to report total gross receipts, school district allocation, and tax liability.

(2) Revenue Form 73A901(I), Instructions for Utility Gross Receipts License Tax Return, shall be used by UGRLT account number holders to complete the Utility Gross Receipts License Tax Return.

(3) Revenue Form 73A902, Utility Gross Receipts License Tax (UGRLT) Energy Exemption Annual Return, shall be used by UGRLT account number holders to apply for an exemption from the utility gross receipts license tax.

(4) Revenue Form 73F010, Utility Gross Receipts License Tax, shall be used by utility providers, Energy Direct Pay (EDP) holders, and consumers for instruction on how to register and file monthly reports.

Section 14. Waste Tire Tax - Required Form. Revenue Form 73A051, Motor Vehicle Tire Fee Report, shall be used by businesses making retail sales of new motor vehicle tires to report liability for motor vehicle tire fees and to report the number of waste tires received from customers.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Alcoholic beverage tax - referenced material:

1. Revenue Form 73A504, "Acknowledgment of Tax Liability on Imported Alcoholic Beverages", July 2015~~[November 2006]~~;

2. Revenue Form 73A525, "Monthly Report of Distillers, Rectifiers or Bottlers", November 2007;

3. Revenue Form 73A526, "Wholesaler's Monthly Distilled Spirits Tax Report", January 2007;

4. Revenue Form 73A527, "Wholesaler's List of Individual Spirits Shipments Acquired", February 2011~~[November 2006]~~;

5. Revenue Form 73A529, "Consignor's Report of Alcoholic Beverages Shipped", January 2007;

6. Revenue Form 73A530, "Consignor's Report of Alcoholic Beverages Shipped", August 2014~~[November 2006]~~;

7. Revenue Form 73A531, "Transporter's Report of Alcoholic Beverages Delivered", January 2007;

8. Revenue Form 73A535, "Report of Destruction of Alcoholic Beverages", February 2011~~[December 2006]~~;

9. Revenue Form 73A575, "Wholesaler's Monthly Wine Tax Report", July 2015~~[January 2007]~~;

10. Revenue Form 73A576, "Vintner's Wine Report", July 2015~~[April 2007]~~;

11. Revenue Form 73A577, "Wholesaler's List of Individual Wine Shipments Acquired", February 2011~~[November 2006]~~;

12. Revenue Form 73A626, "Brewer's Monthly Report Schedule", February 2011~~[November 2006]~~;

13. Revenue Form 73A627, "Beer Distributor's Monthly Report", February 2011~~[December 2006]~~;

14. Revenue Form 73A628, "Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax~~[and Wholesale Sales Tax]~~ Report", July 2015~~[November 2006]~~; ~~[and]~~

15. Revenue Form 73A628(I), "Instructions for Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax Report", July 2015;

16. Revenue Form 73A629, "Beer Distributor's Sales to Federal Agencies", November 2006; and

17. Revenue Form 73A630, "[ABC] Microbrewer's Retail Gross Receipts Report to Distributor", July 2015;

(b) Bank franchise tax - referenced material:

1. Revenue Form 73A800, "Kentucky Registration Application for Bank Franchise Tax", January 2016~~[2015]~~~~[2010]~~;

2. Revenue Form 73A801(P), "2015~~[2009]~~ Kentucky Bank Franchise Tax Forms and Instructions", January 2016~~[2015]~~~~[2010]~~;

3. Revenue Form 73A801, "Bank Franchise Tax Return", January 2016~~[2015]~~~~[2010]~~; and

4. Revenue Form 73A802, "Application for 90-Day Extension of Time to File Kentucky Bank Franchise Tax Return", January 2016~~[2015]~~~~[2010]~~;

(c) Cigarettes and Tobacco tax - referenced material:

1. Revenue Form 73A181, "Application for Cigarette and Tobacco Products Licenses~~[Cigarette Licenses and Other Tobacco Product Account Number Application]~~", June 2013~~[2010]~~;

2. Revenue Form 73A190, "Cigarette and Tobacco Products License", July 2015~~[December 2006]~~;

3. Revenue Form 73A404, "Cigarette Tax Stamps Order Form", September 2014~~[April 2009]~~;

4. Revenue Form 73A406, "Cigarette Tax Credit Certificate", March 2009;

5. Revenue Form 73A409, "Cigarette Evidence/Property Receipt", November 2003;

6. Revenue Form 73A420, "Monthly Report of Cigarette Wholesaler", February 2012~~[August 2006]~~;

7. Revenue Form 73A420(I), "Instructions for Monthly Report of Cigarette Wholesaler", February 2012~~[June 2002]~~;

8. Revenue Form 73A421, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff for Inventories as of March 31, 2009", March 2009;

9. Revenue Form 73A421A, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff", March 2009;

10. Revenue Form 73A421B, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff", March 2009;

11. Revenue Form 73A421W, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff", March 2009;

12. Revenue Form 73A422, "Monthly Report of~~[Other]~~ Tobacco Products,~~[and]~~ Snuff, and Chewing Tobacco", August 2013~~[April 2009]~~;

13. Revenue Form 73A422(I), "Instructions for Monthly Report of Tobacco Products, Snuff, and Chewing Tobacco", August 2013;~~[Revenue Form 73A423, "Monthly Report of Cigarette Papers", June 2006; and]~~

14. Revenue Form 73A450, "Retail Tobacco Inspection Report", August 2014; and

15. Revenue Form 73B401, "Cigarette Tax Credit Claim Wholesaler's Affidavit", March 2009;

(d) Health care provider tax - referenced material:

1. Revenue Form 73A060, "Health Care Provider Tax Return", November 2008~~[July 2005]~~;

2. Revenue Form 73A060(I), "Instructions - Kentucky Health Care Provider Tax Return", August 2014~~[July 2005]~~; and

3. Revenue Form 73A061, "Kentucky Health Care Provider Application for Certificate of Registration", December 2006;

(e) Inheritance tax - referenced material:

1.~~[Revenue Form 92A101, "Kentucky Nonresident Inheritance and Estate Tax Return", May 1995;~~

2.~~Revenue Form 92A110, "Real Estate Data Report", May 1995;~~

3.~~Revenue Form 92A120, "Kentucky Resident Inheritance and Estate Tax Return", May 1995;~~

4.~~Revenue Form 92A120-S, "Inheritance and Estate Tax Return-Short Form", May 1995;~~

5.~~Revenue Form 92A120-X, "Kentucky Spousal Inheritance Tax Return", October 1992;~~

6.~~Revenue Form 92A121, "Acceptance of Inheritance and Estate Tax Return", July 2010;~~

2.~~[7.] Revenue Form 92A200, "Kentucky Inheritance~~[and Estate]~~ Tax Return", June 2015~~[July 2003]~~;~~

3.~~[8.] Revenue Form 92A200P[KF], "Kentucky Inheritance and Estate Tax Forms and Instructions", June 2015~~[August 2010]~~;~~

4.~~[9.] Revenue Form 92A201, "Kentucky Inheritance Tax Return No Tax Due", March 2012~~[July 2003]~~;~~

5.~~[10.] Revenue Form 92A202, "Kentucky Estate Tax Return",~~

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July 2003;

41.] Revenue Form 92A204, "Real Estate Valuation Information Form", March 2012[~~July 2003~~];

6.[42.] Revenue Form 92A205, "Kentucky Inheritance Tax Return (Short Form[Simplified Format])", June 2015[~~July 2003~~];

7. Revenue Form 92A300, "Affidavit of Exemption", September 2013;

8.[43.] Revenue Form 92A928, "Election to Defer the Payment of Inheritance Tax Through Installments", June 2015[~~July 2003~~];

9.[44.] Revenue Form 92A929, "Notice of Agricultural and Horticultural Inheritance Tax Lien", March 1991;

10.[45.] Revenue Form 92A930, "Certificate of Release of Agricultural and Horticultural Inheritance Tax Lien", March 1990;

11.[46.] Revenue Form 92A931, "Certificate of Partial Discharge of the Agricultural and Horticultural Inheritance Tax Lien", July 1983;

12.[47.] Revenue Form 92A932, "Receipt of Inheritance and Estate Taxes", March 2008;

13.[48.] Revenue Form 92A936, "Election to Qualify Terminable Interest Property and/or Power of Appointment Property", March 2012[~~May 1995~~];

14.[49.] Revenue Form 92F001, "Inheritance Tax Lien Releases and Inventory of Safe Deposit Boxes", March 2012[~~July 2010~~]; and

15.[20.] Revenue Form 92F101, "A Guide to Kentucky Inheritance and Estate Taxes", July 2014[~~March 2003~~];

(f) Insurance tax - referenced material:

1. Revenue Form 74A100, "Insurance Premiums Tax Return", January 2016[~~December 2008~~];

2. Revenue Form 74A101, "Insurance Premiums Tax Return - Domestic Mutual, Domestic Mutual Fire or Cooperative and Assessment Fire Insurance Companies", January 2014[~~2008~~];

3. Revenue Form 74A105, "Unauthorized Insurance Tax Return", January 2016[~~2008~~];

4. Revenue Form 74A106, "Insurance Premiums Tax Return - Captive Insurer", January 2015[~~2008~~];

5. Revenue Form 74A110, "Kentucky Estimated Insurance Premiums Tax for Calendar Year 2016[~~2015~~][~~2009~~]", January 2016[~~December 2008~~];

6. Revenue Form 74A116, "Tax Election for Domestic Life Insurance Companies", December 1998;

7. Revenue Form 74A117, "Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer", January 2015[~~2008~~];[and]

8. Revenue Form 74A117A, "[Annual] Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer", January 2016;

9. Revenue Form 74A118, "Monthly Insurance Surcharge Report", January 2015[~~March 2010~~]; and

10. Revenue Form 74A118A, "[Annual] Insurance Surcharge Report", January 2016;

(g) Legal process - referenced material:

1. Revenue Form 73A200, "County Clerk's Monthly Report of Legal Process Tax Receipts", November 2006; and

2. Revenue Form 73A201, "Quarterly Report of Affordable Housing Trust Fund Fee", June 2006;

(h) Marijuana and controlled substance - referenced material:

1. Revenue Form 73A701, "Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp)", April 2011[~~November 2006~~];

2. Revenue Form 73A702, "Notice of Tax Lien KRS 138.870 Marijuana and Controlled Substance Tax", April 2011[~~November 2006~~]; and

3. Revenue Form 73A703, "Marijuana or Controlled Substance Stamp Order Form", November 2006;

(i) Motor fuels - referenced material:

1. Revenue Form 72A004, "Motor Fuels Tax Watercraft Refund Bond", August 2006;

2. Revenue Form 72A005, "Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock", April 2009;

3. Revenue Form 72A006, "Motor Fuel Tax Refund Application - Public Boat Dock", December 2009;

4. Revenue Form 72A010, "Motor Fuel Tax Refund Permit

Holder's Bond", October 2006;

5. Revenue Form 72A011, "Petroleum Storage Tank Environmental Assurance Fee Monthly Report", October 2006;

6. Revenue Form 72A052, "Kentucky Motor Fuels Tax Refund Permit", July 2007;

7. Revenue Form 72A053-A, "Application for Refund of Kentucky Motor Fuel Tax Paid on Nonhighway Motor Fuels", July 2007;

8. Revenue Form 72A065, "Aviation Gasoline Tax Refund Bond", October 2006;

9. Revenue Form 72A066, "Application for Refund of Kentucky Tax Paid on Gasoline Used in Operation of Aircraft", April 2009;

10. Revenue Form 72A067, "Application for Approval to Receive a Refund of Aviation Motor Fuels", April 2009;

11. Revenue Form 72A071, "Motor Fuels Tax Refund Bond (City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs)", October 2006;

12. Revenue Form 72A072, "Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation, and Taxicab Companies", August 2005;

13. Revenue Form 72A073, "Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation, and Taxicabs", April 2009;

14. Revenue Form 72A078, "Statement of Claim for Accountable Loss of Motor Fuel", April 2011[~~October 2006~~];

15. Revenue Form 72A089, "Licensed Gasoline Dealer's Monthly Report", July 2007;

16. Revenue Form 72A098, "Transporter's Report of Motor Fuel Delivered", July 2007;

17. Revenue Form 72A099, "Transporter's Report", July 2007;

18. Revenue Form 72A110, "Certification of Motor Fuels Nonhighway Use", April 2011[~~December 2005~~];

19. Revenue Form 72A135, "Application for Kentucky Motor Fuels Tax Refund Permit", April 2009;

20. Revenue Form 72A138, "Licensed Special Fuels Dealer's Monthly Report", July 2007;

21. Revenue Form 72A161, "Monthly Report Liquefied Petroleum Gas Dealer", July 2007;

22. Revenue Form 72A170, "Monthly Terminal Report", July 2007;

23. Revenue Form 72A178, "Distributor's Schedule of Disbursements", July 2007;

24. Revenue Form 72A179, "Distributor's Schedule of Receipts" July 2007;

25. Revenue Form 72A180, "Schedule 15A-Terminal Operator Schedule of Receipts", July 2007;

26. Revenue Form 72A181, "Schedule 15B-Terminal Operator Schedule of Disbursement", July 2007;

27. Revenue Form 72A300, "Tax Registration Application for Motor Fuels License", April 2011[~~December 2009~~];

28. Revenue Form 72A301, "Motor Fuels License Bond", October 2006;

29. Revenue Form 72A302, "Motor Fuels License", July 2007;

30. Revenue Form 72A303, "Election Application/Cancellation Form", September 2006; and

31. Revenue Form 72A304, "Motor Fuel Tax Electronic Filing Application", December 2007.

(j) Motor vehicle usage tax - referenced material:

1. Revenue Form 71A010, "Motor Vehicle Usage Tax - Vehicle Condition Refund Application" April 2011[~~August 2006~~];

2. Revenue Form 71A100, "Affidavit of Total Consideration Given for a Motor Vehicle", July 2014[~~August 2006~~];

3. Revenue Form 71A101, "Motor Vehicle Usage Tax Multi-Purpose Form", April 2005;

4. Revenue Form 71A102, "Questionnaire", August 2000;

5. Revenue Form 71A174, "County Clerk's Adjusted Recapitulation of Motor Vehicle Usage Tax - Weekly Report", June 1991;

6. Revenue Form 71A174-A, "County Clerk's Recapitulation of Motor Vehicle Usage Tax - Interim Report", June 1991;

7. Revenue Form 71F004, "Motor Vehicle Usage Tax - Loaner-

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Rental Program", March 2006;

8. [Revenue Form 72A007, "Affidavit of Nonhighway Use", July 2009;

9.] Revenue Form 73A054, "Kentucky Application for Dealer Loaner/Rental Vehicle Tax", August 2006;

9.[40.] Revenue Form 73A055, "Monthly Report for Dealer Loaner/Rental Vehicle Tax", January 2010; and

10.[14.] Revenue Form 73A070, "Motor Vehicle Usage Tax Request for Extension of Reports, Deposit and/or ACH Call-in", January 2009;

(k) Racing taxes - referenced material:

1. Revenue Form 73A100, "Race Track Pari-Mutuel and Admissions Report", ~~June 2015~~July 2010;

2. Revenue Form 73A101, "Historical Pari-Mutuel Report", ~~June 2015~~2014;

3. Revenue Form 73A102, "Advanced Deposit Wagering Excise Tax Report", August 2014;

(l) Transient room tax - referenced material: Revenue Form 73A850, "Transient Room Tax Monthly Return", ~~January 2012~~April 2005;

(m) Utility gross receipts license tax - referenced material:

1. Revenue Form 73A901, "Utility Gross Receipts License Tax Return", August 2005;

2. Revenue Form 73A901(l), "Instructions for Utility Gross Receipts License Tax Return", January 2006;

3. Revenue Form 73A902, "Utility Gross Receipts License Tax (UGRLT) Energy Exemption Annual Return", December 2008; and

4. Revenue Form 73F010, "Utility Gross Receipts License Tax", ~~June 2011~~March 2005; and

(n) Waste tire tax - referenced material: Revenue Form 73A051, "Motor Vehicle Tire Fee Report", ~~May 2011~~March 2005.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: March 14, 2016

FILED WITH LRC: March 15, 2016 at 10 a.m.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-2541, email lisa.swiger@ky.gov.

GENERAL GOVERNMENT CABINET Board of Nursing (As Amended at ARRS, May 10, 2016)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.874(3), 314.027(2), 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), 314.073(8), 314.075(1), 314.101(4), 314.142(1)(b), 314.161, 314.171(4)

STATUTORY AUTHORITY: KRS 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), 314.073(8), 314.131(1), 314.142(1)(b), 314.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131 authorizes the board to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 314. KRS 314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), and 314.073(8) require the board to establish fees for licensure, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.

Section 1. Fees for Licensure Applications. (1) The board shall collect a fee for:

(a) An application for licensure; and

(b) Licensure renewal or reinstatement.

(2) The fee for an application shall be:

(a) Licensure by endorsement as a registered nurse - \$165;

(b) Licensure by endorsement as a licensed practical nurse - \$165;

(c) Licensure by examination as a registered nurse - \$125;

(d) Licensure by examination as a licensed practical nurse - \$125;

(e) Renewal of license - fifty-five (55) dollars;

(f) Retired status - twenty-five (25) dollars;

(g) Reinstatement of license - \$135;

(h) Paper copy of an application - forty (40) dollars;

(i) Full verification of licensure, credential or registration history - fifty (50) dollars;

(j) Licensure as an advanced practice registered nurse - \$165;

(k) Renewal of licensure as an advanced practice registered nurse - fifty-five (55) dollars;

(l) Reinstatement of licensure as an advanced practice registered nurse - \$135;

(m) Name change - twenty-five (25) dollars;

(n) Application to establish a registered nurse or licensed practical nurse precursory program of nursing pursuant to 201 KAR 20:280~~[or 201 KAR 20:290]~~ - \$2,000; or

~~(o) Information submitted to establish a doctor of nursing practice program pursuant to 201 KAR 20:061, Section 1 - \$250;~~

~~(p) Information submitted to establish a doctor of nursing practice program pursuant to 201 KAR 20:061, Section 2 - \$2,000; or~~

~~(q) Information submitted to establish an advanced practice registered nurse program pursuant to 201 KAR 20:062, Section 3 - \$2,000.~~

(3) An application or information submitted under this section shall not be evaluated by the board unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider of continuing education or for a renewal or reinstatement of the approval shall be:

(1) Initial provider approval - \$400;

(2) Reinstatement of provider approval - \$400;

(3) Renewal of approval - \$100; or

(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) The fee for a service shall be:

(a) Validation of the current status of a temporary work permit, provisional license, license, or credential:

1. If requested in writing in individual nurse format - fifty (50) dollars; or

2. If requested in writing in list format - fifty (50) dollars for the first name and twenty (20) dollars for each additional name;

(b) Copy of an examination result or transcript - twenty-five (25) dollars;

(c) Nursing certificate - thirty (30) dollars; or

(d) Release of NCLEX results to another state board of nursing - seventy-five (75) dollars.

(2) An applicant for licensure who takes or retakes the licensure examination shall pay:

(a) The current examination fee required by the national council of state boards of nursing; and

(b) Application for licensure fee pursuant to Section 1 of this administrative regulation.

(3) A graduate of a foreign school of nursing shall be responsible for:

(a) Costs incurred to submit credentials translated into English;

(b) Immigration documents; and

(c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

(4) A program of nursing that requires a site visit pursuant to 201 KAR ~~20:360~~20:270, Section ~~5~~2(4), shall pay the cost of the site visit to the board.

Section 4. An application shall lapse and the fee shall be forfeited if the application is not completed as follows:

(1) For an application for licensure by endorsement, within six (6) months from the date the application form is filed with the board office;

(2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office; or

(3) For all other applications, except for renewal of license applications, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, or credential shall be issued the appropriate approval, license, or credential without additional fee.

Section 6. Fees for Sexual Assault Nurse Examiners. (1) The application fee shall be \$120.

(2) The credential renewal fee shall be fifty (50) dollars.

(3) The credential reinstatement fee shall be \$120.

Section 7. A payment for an application fee that is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

Section 8. Bad Transaction Fee. Any transaction, including paper or electronic, submitted to the board for payment of a fee which is returned for nonpayment shall be assessed a bad transaction fee of thirty-five (35) dollars.

GAIL WISE, President

APPROVED BY AGENCY: February 18, 2016

FILED WITH LRC: March 2, 2016 at 1 p.m.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

**GENERAL GOVERNMENT CABINET
Board of Social Work
(As Amended at ARRS, May 10, 2016)**

201 KAR 23:070. Qualifying education for a certified social worker and a licensed clinical social worker and qualifying experience under supervision.

RELATES TO: KRS 335.010, 335.080(1)(c), (3), 335.100(1)(a), (b), (3)

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(c), (3), 335.100(1)(a), (b), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(c) and 335.100(1)(a) require an applicant for a certified social worker license or a licensed clinical social worker license to have a master's degree or a doctoral degree in social work from an educational institution approved by the board. KRS 335.080(3) allows a certified social worker to engage in the practice of clinical social work under the supervision of a licensed clinical social worker as directed by the board by promulgation of an administrative regulation. KRS 335.100(1)(b) requires an applicant for a licensed clinical social worker license to have acquired post-master's experience under approved~~[appropriate]~~ supervision as established by the board by promulgation of an administrative regulation. KRS 335.100(3) requires a licensed clinical social worker to assume responsibility for and supervise the certified social worker's practice of clinical social work as directed by the board by promulgation of an administrative regulation. This administrative regulation establishes the educational institutions approved by the board, the definitions relating to supervision, the content of a ~~a~~**[Contract for]** Clinical Social Work Supervision **Contract**, and the requirements for qualifying experience under supervision.

Section 1. Definitions. (1) "Educational institution approved by the board" means a graduate school of social work accredited by the Council on Social Work Education.

(2) "Electronic supervision" means the use of computers and other electronic means by which the supervisor and supervisee use interactive video technology, in real-time, with video and audio interaction for individual and group supervision.

(3) "Practice of clinical social work" means the practice of social work that focuses on the evaluation, diagnosis, and treatment of an emotional disorder or mental illness as related to the total health of the individual and that meets the requirements of Section ~~3~~**[2]** of this administrative regulation.

~~4~~**[3]** "Supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing clinical social work services.

~~5~~**[4]** "Supervisor of record" means the supervisor who assumes responsibility for the practice of a certified social worker pursuant to KRS 335.080(3) and 335.100(3).

Section 2. Education Requirements. An applicant for a certified social worker license or a licensed clinical social worker license shall have a Master of Social Work degree or Doctorate of Social Work degree from an educational institution approved by the board.

Section 3. Practice of Clinical Social Work. (1) The practice of clinical social work shall be based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics.

(2) A practitioner of clinical social work shall:

(a) Possess competencies including skills necessary for:

1. Individual, marital, family, and group psychotherapy; and
2. Other recognized treatment modalities; and

(b) Establish a therapeutic relationship with his or her client that:

1. Leads to correction of the dysfunction;
2. Includes:
 - a. Diagnosis using professionally recognized clinical nomenclature;
 - b. Treatment planning that includes development, implementation, and modification of the plan;
 - c. Evaluation of progress; and
 - d. Termination of the treatment process; and
3. Is characterized by face-to-face contact with the client throughout the treatment process.

Section ~~4~~**[3]** Supervision. (1) A supervisor shall be a licensed clinical social worker who:

(a) Provides supervision to a certified social worker pursuant to KRS 335.080(3) and 335.100(3);

(b) Does not have:

1. An unresolved citation filed against him or her by the board;
2. A suspended or probated license; or
3. A previous or existing personal relationship with a supervisee; and

(c) Has:

1. Been in the practice of clinical social work for three (3) years following licensure in Kentucky or another jurisdiction as an independent~~[a]~~ licensed ~~[, independent]~~ clinical social worker; and

2. Completed a board-approved three (3) hour training course on supervisory practices and methods for licensed clinical social workers relating to the requirements in KRS Chapter 335 and this administrative regulation.

(2) Supervisory experience obtained in Kentucky with a supervisor who has not completed the course required by subsection (1)(c) 2 of this section shall not be approved by the board.

(3) The supervisory training course shall be completed every licensure period to maintain supervisory status with the board.

(4) A licensed clinical social worker shall not serve as a supervisor of record for more than six (6) certified social workers

with whom he or she has a contract to be held accountable to the board at the same time.

(5) An applicant receiving supervision outside of Kentucky shall demonstrate that his or her supervisor has been in the practice of clinical social work for a period of three (3) years following licensure as a clinical social worker or its equivalent effective at the time of the supervision.

(6) To be approved~~recognized~~ as a supervisor, a licensed clinical social worker who meets the requirements of this section shall submit a written request to become a supervisor in Kentucky along with a copy of the supervisory training certificate.

Section 5.4.7~~Contract for~~ Clinical Social Work Supervision Contract. The ~~Contract for~~ Clinical Social Work Supervision Contract required by KRS 335.080(3) and 335.100(3) shall be submitted to the board for approval before the certified social worker begins supervision and contain:

- (1) The name and license number of the supervisee;
- (2) The name and license number of the supervisor of record;
- (3) The name and license number of additional~~other~~ supervisors;

(4) The agency, institution, or organization where the experience will be received;

(5) A detailed description of the nature of the practice including the type of:

- (a) Clients who~~which~~ will be seen;
- (b) Therapies and treatment modalities which will be used including the prospective length of treatment; and
- (c) Problems which will be treated;

(6) The nature, duration, and frequency of the supervision, including the:

- (a) Number of hours of supervision per week;
- (b) Amount of group and individual supervision; and
- (c) Methodology for transmission of case information;
- (7) The conditions or procedures for termination of the supervision;

(8) A statement that:

(a) The supervisor of record understands that he or she shall be held accountable to the board for the care given to the supervisee's clients;

(b) The certified social worker is an employee of an agency, institution, or organization, and has Social Security and income tax deducted from his or her salary;~~and~~

(c) The supervisor of record and additional~~other~~ supervisors meet the criteria established in Section 4.3(1) through (4) of this administrative regulation; and

(d) A~~The~~ supervisor and supervisee may agree to use electronic supervision~~if requested~~;

(9) An individualized job description attached to the Clinical Social Work Supervision Contract that:

(a) Describes in detail how the requirements of Sections 7 and 8.6 and 7 of this administrative regulation will be met; and

(b) Is on office or agency letterhead and is signed by the executive director, the agency director, or the individual who heads the office; and

(10) A copy of each supervisor's supervisory training certificate attached to the ~~contract for~~ Clinical Social Work Supervision Contract.

Section 6.5 Notice to Client. If an employee is practicing under the supervision of a licensed clinical social worker, the employee shall notify in writing each client during the period of the supervision. The notification shall contain:

- (1) The name, office address, telephone number, and license number of the supervisor of record; and
- (2) A statement that the employee is licensed by the board.

Section 7.6 Experience under Supervision. Experience under supervision shall consist of:

(1) At least sixty (60) percent of the required experience in a direct client-professional relationship;

(2) Direct responsibility for a specific individual or group of clients; and

(3) Broad exposure and opportunity for skill development with a variety of dysfunctions, diagnoses, acuity levels, and population groups.

Section 8.7 Supervision Requirements. (1) Supervision shall relate specifically to the qualifying experience and shall focus on:

(a) The accurate diagnosis of a client problem leading to proficiency in applying professionally recognized clinical nomenclature;

(b) The development and modification of the treatment plan;

(c) The development of treatment skills suitable to each phase of the therapeutic process;

(d) Ethical problems in the practice of clinical social work; and

(e) The development and use of the professional self in the therapeutic process.

(2)(a) Supervision shall total a minimum of 200 hours, which shall include individual supervision of not less than two (2) hours during every two (2) weeks of clinical social work practice.;

(b) ~~Individual supervision may include electronic supervision for no more than two (2) hours of individual supervision of one direct meeting per month.~~ Electronic supervision may be used for no more than two (2) hours of individual supervision one (1) direct meeting per month, but only after the first twenty-five (25) hours of individual supervision hours have been obtained in face-to-face, in-person meetings where the supervisor and supervisee are physically present in the same room. A certified social worker who completes the first twenty-five (25) hours of face-to-face individual supervision hours shall not have to repeat the face-to-face individual supervision hours if a new contract or supervisor of record is approved by the board. No more than fifty (50) percent of the individual supervision hours may be obtained by electronic supervision in an electronic format.

(c) A supervisee shall not obtain more than 100 hours of the required supervision by~~supervision by~~ group supervision.

(d) No more than fifty (50) percent of the group supervision hours may be obtained by electronic supervision.

(e) Electronic supervision shall conform to all state and federal laws governing electronic practice to ensure the confidentiality of the client's~~patient's~~ medical information is maintained as required by KRS Chapter 335 and 201 KAR Chapter 23~~this chapter~~ and by all applicable state and federal law.

(f) ~~and~~

(g) Group supervision shall not be ~~permitted~~ in groups of more than six (6) supervisees.

(3) Documentation that establishes that an individual has been licensed in another jurisdiction at the clinical level and has been engaged in the active practice of clinical social work in that jurisdiction for at least five (5) years prior to~~immediately preceding~~ the filing of an application with the board meets the requirement for supervision set forth in this administrative regulation.

Section 9.8 Evaluation by Board. (1) The period of supervised experience required by KRS 335.100(1)(b) shall be evaluated by the board according to one (1) of the ~~following~~ methods established in this subsection.:

(a) Post experience evaluation. An applicant~~A candidate~~ whose experience was obtained while ~~employed at an agency exempted under KRS 335.010(3), (4) or (5) or while~~ licensed in another state shall submit his or her application along with ~~appropriate~~ documentation of supervision upon completion of the experience.

(b) Transitional evaluation. An applicant~~A candidate~~ who has accumulated an amount less than the full amount of qualifying experience while ~~employed at an agency exempted under KRS 335.010 (3), (4) or (5) or while~~ licensed in another state or while working in a clinical social work setting that does not meet the requirements under Section 7.6(3) of this administrative regulation, and who is seeking to obtain the remainder of his experience in nonexempt employment, shall submit his or her application along with ~~appropriate~~ documentation of supervision completed to the date of his or her application. The applicant~~He~~

shall also submit with his or her application a **Clinical Social Work Supervision** Contract under paragraph (c) of this subsection for the remainder of the supervised experience.

(c) Preapproved evaluation. Prior to beginning supervision, an applicant~~Candidates not otherwise exempted under KRS 335.010(3), (4) or (5)]~~ shall submit a **Clinical Social Work Supervision** Contract for the supervised experience which will be taking place over the required time period and shall have the contract approved by the board~~prior to beginning supervision~~. This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

(2) A certified social worker who desires to practice clinical social work that does not qualify as supervised experience pursuant to KRS 335.100(1)(b), shall submit a **Clinical Social Work Supervision** Contract pursuant to KRS 335.080(3). This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

(3) A certified social worker who desires to practice clinical social work that meets all the other supervised experience requirements other than the requirement listed in Section 7[6](3) of this administrative regulation shall[may] submit a Clinical Social Work Supervision Contract pursuant to KRS 335.080(3). The supervision hours obtained in this clinical setting may be considered by the board~~upon submission of a transitional evaluation contract].~~

Section 10[9.] (1) Changes to Section A of the Plan of Clinical Social Work Activities~~[that portion]~~ of the ~~[Contract for]~~ Clinical Social Work Supervision **Contract** that describes the clinical setting and nature of the practice and experience that the supervisee is to obtain as required by Section 5[4](5) of this administrative regulation shall be submitted to the board for approval.

(2) If the supervisee changes his or her supervisor of record, a new Contract for Clinical Social Work Supervision shall be submitted to the board for approval.

(3) A supervisee shall notify the board by letter of changes of additional supervisors who are not the supervisor of record, but who are identified in the~~[Contract for]~~ Clinical Social Work Supervision **Contract** pursuant to Section 5[4](3) of this administrative regulation, and attach a copy of the supervisor's supervisory training certificate.

Section 11[10.] Incorporation by Reference. (1) "~~[Contract for]~~ Clinical Social Work Supervision **Contract**", 04/2016[03/2016][12/2015][10/2010], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Social Work, 44 Fountain Place~~[911 Leewood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM M. ADCOCK, Chair
 APPROVED BY AGENCY: March 15, 2016
 FILED WITH LRC: March 15, 2016 at noon
 CONTACT PERSON: Florence S. Huffman, Executive Director, Kentucky Board of Social Work, 44 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-2350, fax (502) 696-8030, email florence.huffman@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, May 10, 2016)

501 KAR 6:170. Green River Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
 STATUTORY AUTHORITY: 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper

administration of the department or any of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Green River Correctional Complex.

Section 1. Incorporation by Reference. (1) "Green River Correctional Complex Policies and Procedures", May 10[February 26], 2016~~[April 14, 2014]~~, is incorporated by reference. Green River Correctional Complex Policies and Procedures include:

- GRCC 01-06-01 Inmate Access to and Communication with GRCC Staff (Amended 11/15/07)
- GRCC 01-07-01 Institutional Tours of GRCC (Amended 11/15/07)
- GRCC 01-08-01 GRCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive, and Community Agencies (Amended 11/15/07)
- GRCC 01-12-01 Public Information and Media Communication (Amended 11/15/07)
- GRCC 01-13-01 Tobacco Free (Amended 4/14/14)
- GRCC 02-01-02 Fiscal Management: Accounting Procedures (Amended 11/15/07)
- GRCC 02-01-03 Fiscal Management: Agency Funds (Amended 11/15/07)
- GRCC 02-06-01 Inmate Canteen (Amended 11/15/07)
- GRCC 02-06-02 Inmate Canteen Committee (Amended 11/15/07)
- GRCC 02-07-01 Inmate Personal Funds (Amended 11/15/07)
- GRCC 03-12-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, Volunteers, and Student Interns (Amended 11/15/07)
- GRCC 05-02-01 Outside Consultation and Research (Amended 11/15/07)
- GRCC 06-01-01 Offender Records (Amended 4/14/14)
- GRCC 08-02-01 Fire Safety (Amended 4/14/14)
- GRCC 09-01-01 Inmate Counts (Amended 4/14/14)
- GRCC 09-02-01 Inmate Unauthorized Substance Abuse Testing (Amended 2/13/14)
- GRCC 09-04-01 Inmate Death (Amended 2/13/14)
- GRCC 10-01-01 Special Management Unit (Amended 5/10/16[2/26/16]~~[11/15/07]~~)
- GRCC 11-01-01 Food Service: General Guidelines (Amended 4/14/14)
- GRCC 11-02-01 Food Service: Security (Amended 2/13/14)
- GRCC 11-03-01 Dining Room Guidelines (Amended 2/13/14)
- GRCC 11-04-01 Food Service: Meals (Amended 2/13/14)
- GRCC 11-04-02 Food Service: Menu, Nutrition and Restricted Diets (Amended 2/13/14)
- GRCC 11-06-01 Health Requirements of Food Handlers (Amended 11/15/07)
- GRCC 11-07-01 Food Service: Inspections and Sanitation (Amended 2/13/14)
- GRCC 12-01-01 Clothing, Bedding, Hygiene Supplies, and Barber Shop (Amended 4/14/14)
- GRCC 13-02-01 Medical Services: Sick Call, Physician's Clinics and Pill Call (Amended 9/14/2005)
- GRCC 13-02-02 Medical Services: Copayment (Amended 9/14/2005)
- GRCC 13-02-03 Continuing of Care: Health Evaluations, Intrasystem Transfer, Individual Treatment Plans (Amended 9/14/2005)
- GRCC 13-03-01 Use of Pharmaceutical Products (Amended 9/14/2005)
- GRCC 13-04-01 Health Records (Amended 9/14/2005)
- GRCC 13-04-02 Psychological and Psychiatric Reports (Amended 11/8/2005)
- GRCC 13-05-01 Management of Serious and Infectious Diseases (Amended 9/14/2005)
- GRCC 13-06-01 Mental Health Services (Amended 2/26/16~~[9/14/2005]~~)

- ~~GRCC 13-07-01~~ Medical Restraints (Amended 9/14/2005)
- GRCC 13-08-01 Eye Care (Amended 5/10/16[2/26/16][9/14/2005])
- GRCC 13-09-01 Dental Care (Amended 9/14/2005)
- GRCC 13-10-01 Transfers and Medical Profiles (Amended 2/26/16[9/14/2005])
- GRCC 13-11-01 Informed Consent (Amended 2/26/16[9/14/2005])
- GRCC 13-12-01 Infirmity Care (Amended 9/14/2005)
- GRCC 13-13-01 Inmate Self-administration of Medication (Amended 2/26/16[9/14/2005])
- GRCC 13-15-01 Health Education Program and Detoxification (Amended 9/14/2005)
- GRCC 14-01-01 Inmate Rights and Responsibilities (Amended 11/15/07)
- GRCC 14-02-01 Legal Services Program (Amended 11/15/07)
- GRCC 16-01-01 Inmate Visiting (Amended 4/14/14)
- GRCC 16-02-02 Inmate Correspondence and Privileged Mail (Amended 2/13/14)
- GRCC 16-03-01 Inmate Telephone Communications (Amended 11/15/07)
- GRCC 16-04-01 Inmate Packages (Amended 11/15/07)
- GRCC 17-01-01 Inmate Property Control (Amended 2/13/14)
- GRCC 17-02-01 GRCC Inmate Receiving and Orientation Process (Amended 11/15/07)
- GRCC 17-03-01 Procedure for Sending Televisions to Outside Dealer for Repair (Amended 11/15/07)
- GRCC 18-01-01 Inmate Classification (Amended 11/15/07)
- GRCC 18-02-01 Meritorious Housing (Amended 2/13/14)
- GRCC 18-02-02 Meritorious Visitation Program (Amended 2/13/14)
- GRCC 18-03-01 Minimum Security Unit: Operating Procedures and Living Conditions (Added 11/15/07)
- ~~GRCC 18-04-01 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 5/10/16[2/26/16])~~
- GRCC 19-01-01 Inmate Work Program (Amended 11/15/07)
- GRCC 19-01-02 90-Day Unassigned Status (Amended 2/13/14)
- GRCC 20-01-01 Educational Programs (Amended 2/26/16[11/15/07])
- GRCC 21-01-01 Library Services (Amended 2/13/14)
- GRCC 22-01-01 Recreation Programs (Amended 11/15/07)
- GRCC 22-02-01 Inmate Clubs and Organizations (Amended 2/13/14)
- GRCC 22-04-01 Arts and Crafts Projects (Amended 11/15/07)
- GRCC 22-05-01 Inmate Photo Project (Amended 2/13/14)
- GRCC 23-01-01 Religious Programs (Amended 11/15/07)
- GRCC 23-02-01 Death or Hospitalization of an Inmate's Family Member and Notification of Inmates (Amended 2/13/14)
- GRCC 24-01-01 Social Services and Counseling Program (Amended 11/15/07)
- GRCC 25-01-01 Prerelease Program (Amended 11/15/07)
- GRCC 25-01-02 Inmate Release Process (Amended 5/10/16[2/26/16][11/15/07])
- GRCC 25-02-01 Parole Hearing Procedure (Amended 2/26/16[11/15/07])
- GRCC 26-01-01 Citizen Involvement and Volunteer Services Program (Amended 2/13/14)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Office, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686 Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner
 APPROVED BY AGENCY: February 24, 2016
 FILED WITH LRC: February 26, 2016 at 11 a.m.
 CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(As Amended at ARRS, May 10, 2016)

815 KAR 6:010. Home inspector licensing requirements and maintenance of records.

RELATES TO: KRS 198B.700, 198B.706, 198B.712, 198B.714, 198B.716, 198B.722, 198B.724, 198B.738
 STATUTORY AUTHORITY: KRS 198B.706, 198B.722
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.706(1) and (15) require the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for licensing and certification as well as prescribing forms and applications. KRS 198B.706(7) requires the board to promulgate administrative regulations to provide for the inspection of the records of a licensee. KRS 198B.706(11) requires the board to establish continuing education requirements. KRS 198B.722 requires the board to establish requirements for renewal of licenses and authorizes the board to establish an inactive license. This administrative regulation establishes the licensure and record requirements for home inspectors.

Section 1. Application Requirements. (1) An applicant for a home inspector license shall submit:

(a) A completed ~~[Initial Licensure]~~ Application **for Licensure**, form KBHI-1;

(b) A ~~[current]~~ two (2) inch by two (2) inch passport photograph **taken within the past six (6) months and** affixed to the application form;

(c) A certificate of course completion and the applicant's national examination test score;

(d) A certificate of insurance;

(e) If applicable, other state or local licensure, certification, registration, or permit;

(f) A recent background check performed by the Kentucky State Police and a nationwide criminal background investigation check performed by the Federal Bureau of Investigation. If an applicant submits an application for a nationwide criminal background investigation check performed by the Federal Bureau of Investigation (FBI) and the FBI cannot complete the background investigation check within thirty (30) days of the request, an applicant may submit an Optional Affidavit for Licensure and submit the performed nationwide criminal background investigation check within fourteen (14) days of its completion. If an applicant has a felony conviction during the applicant's lifetime, a misdemeanor conviction within the past five (5) years or a pending charge, the applicant shall not use the optional affidavit; and

(g) A nonrefundable fee of \$250.

(2) An applicant for a home inspector license shall:

(a) Complete and pass a preclicensing training course approved by the board pursuant to subsection (8) of this section and that is administered by a provider who has been approved by the board in accordance with 815 KAR 6:040 and subsection (8) of this section; and

(b) Pass an examination conducted by a board-approved test provider.

(3) A request to sit for the examination shall be made directly to the test provider.

(4) The examination fee shall be set by the testing company and shall be paid directly to the test provider.

(5) A passing score on the examination shall be valid for a period of three (3) years.

(6) Failing the examination.

(a) An applicant who fails to pass the examination two (2) times shall wait at least fourteen (14) calendar days from the date of the second failed examination prior to retaking the examination.

(b) An applicant who fails to pass the examination three (3) or more times shall wait at least thirty (30) calendar days from the date of the third or subsequent failed examination prior to retaking the examination.

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(c) An applicant who fails to pass the examination three (3) times shall not be eligible to retake the examination until the applicant has again completed and again passed the preclicensing training course required by subsection (2)(a) of this section before retaking the examination a fourth time, and also for each subsequent examination failure thereafter.

(7) Procedures and conduct.

(a) The applicant shall follow:

1. Procedures and appropriate conduct established by the board or testing service administering an examination if the procedures and conduct requirements are provided or made available to each applicant or orally announced before the start of the examination; and

2. Written instructions communicated prior to the examination date and instructions communicated at the testing site, either written or oral, on the date of the examination.

(b) Failure to comply with all procedures established by the board or the testing service with regard to conduct at the examination shall be grounds for denial of the application.

(8) Course requirements. To be approved by the board, a preclicensing training course shall require a minimum of:

(a) Sixty-four (64) credit hours of training in the subject areas listed in subparagraphs 1 through 9 of this paragraph for at least the number of hours specified:

1. Manufactured housing: ~~two (2)~~~~[three (3)]~~ hours;

2. Standards of practice, KRS ~~198B.700 to 198B.738~~~~[198B.780]~~~~[Chapter 198B]~~ and 815 KAR Chapter 6, contracts, report writing, and communications: ~~twelve (12)~~~~[eleven (11)]~~ hours;

3. Exterior, roofing, insulation, and ventilation: six (6) hours;

4. Structure and interior: nine (9) hours;

5. Electrical and plumbing: nine (9) hours;

6. Heating and air conditioning: six (6) hours;

7. Field training: sixteen (16) hours, including not more than eight (8) hours in a laboratory;

8. General residential construction: three (3) hours; and

9. Environmental hazards, mitigation, water quality, and indoor air quality: one (1) hour;

(b) The completion of three (3) unpaid home inspections under the supervision of a Kentucky licensed home inspector with satisfactory written reports submitted to the course provider in addition to the sixteen (16) hours of field training required by paragraph (a)7 of this subsection; and

(c) An exit examination with a passing score.

(9) An online preclicensing training course shall not be accepted by the board unless the applicant:

(a) Is enrolled in a preclicensing course on or before ~~September 4, 2015~~~~[the effective date of this administrative regulation]~~;

(b) Maintains continuous enrollment; and

(c) Completes the preclicensing course no later than six (6) months from ~~September 4, 2015~~~~[the effective date of this administrative regulation]~~.

(10) Criminal background checks and other disciplinary proceedings.

(a) Except as established in subsection (1)(f) of this section, each applicant shall submit a recent background check performed by the Kentucky State Police and a nationwide criminal background investigation check performed by the Federal Bureau of Investigation.

(b) If an applicant has resided in a state for less than five (5) years prior to application, the applicant shall also obtain and submit a state-wide criminal background check by a law enforcement agency capable of conducting a state-wide background check from the state where the applicant previously resided.

Section 2. Reciprocity. An applicant seeking a license through reciprocity in accordance with KRS 198B.714 shall:

(1) Submit a completed~~[Initial Licensure]~~ Application ~~for Licensure~~, form KBHI-1, and attachments established in Section 1(1)(b) through (f) of this administrative regulation; and

(2) Pay the fee established in Section 1(1)(g) of this administrative regulation.

Section 3. Nonresident Licensees. A nonresident licensee shall:

(1) Submit a completed~~[Initial Licensure]~~ Application ~~for Licensure~~, form KBHI-1, and attachments established in Section 1(1)(b) through (f) of this administrative regulation;

(2) Pay the fee established in Section 1(1)(g) of this administrative regulation; and

(3) Comply with the provisions established in KRS 198B.716 and this administrative regulation.

Section 4. Renewal of Licenses. (1) To be eligible for renewal of license, an applicant shall hold a valid and current license issued by the board and shall:

(a) Satisfy the continuing education requirements of Section 5 of this administrative regulation;

(b) Pay a nonrefundable renewal fee of \$250 per year for each year of licensure;

(c) Submit a ~~completed~~~~[fully-completed]~~ Application ~~for~~~~[Renewal]~~ Licensure ~~Renewal~~~~[as a Kentucky Home Inspector]~~, form KBHI-2 and attachments, including:

1. A certificate of completion for continuing education;

2. A certification of insurance information;

3. If applicable, other state or local licensure, certification, registration, or permit; and

4. A state-wide criminal background check; and

(d) Submit a copy of a completed inspection report that has been compiled within the previous twelve (12) months immediately preceding renewal.

(2)(a) The renewal application shall be postmarked by the last day of the month in which the licensee is to renew the license.

(b) If the renewal application is postmarked within sixty (60) days after the last day of the licensee's renewal month, the licensee shall pay a nonrefundable:

1. Renewal fee of \$250 per year for each year of licensure; and

2. Late fee of \$250.

(3) If a licensee has not submitted a renewal application within sixty (60) days of the last day of the licensee's renewal month, the license shall be cancelled and the licensee shall cease and desist from conducting home inspections.

(4)(a) If a licensee failed to submit a renewal application more than sixty (60) days from the last day of the licensee's renewal month and wants to be licensed, the licensee shall submit a ~~completed~~~~[License Reinstatement]~~ Application ~~for Licensure Reinstatement~~, form KBHI-6, within 120 days of the last day of the licensee's renewal month. The licensee shall pay a nonrefundable:

1. Renewal fee of \$250 per year for each year of licensure; and

2. Late fee of \$500.

(b) If a licensee failed to submit ~~an Application for Licensure Renewal or an~~~~a renewal application or a License Reinstatement]~~ Application ~~for Licensure Reinstatement~~ within 120 days of the last day of the licensee's renewal month and wants to be licensed, the licensee shall submit a new application in accordance with existing requirements for initial applicants under KRS ~~198B.700 to 198B.738~~~~[198B.780]~~~~[Chapter 198B]~~ and 815 KAR Chapter 6.

Section 5. Continuing Education. (1) The continuing education requirements of this section shall apply only to those licensees who will have been licensed at least twelve (12) months at license renewal.

(2) Each licensee who renews a license in an odd year shall have at least fourteen (14) hours of continuing education per license year. Each licensee who renews a license during an even year shall have at least twenty-eight (28) hours of continuing education during the license biennial period.

(3) Prior to renewal, the continuing education shall include a minimum of:

(a) ~~Two (2)~~~~[Three (3)]~~ hours in manufactured housing;

(b) ~~Three (3)~~ hours in KRS ~~198B.700 to 198B.738~~~~[198B.780]~~~~[Chapter 198B]~~ and 815 KAR Chapter 6;

(c) ~~Three (3)~~ hours in report writing; and

(d) ~~Six (6)~~~~[Five (5)]~~ hours in technical courses, including

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identification and determination, as applicable within the standards of practice.

(4)(a) The continuing education courses identified in subsection (3)(a) through (c) of this section shall be completed face-to-face. An online continuing education course shall not satisfy the continuing education requirement for each respective category.

(b) The face-to-face requirement identified for the continuing education courses shall be effective beginning the next renewal period following **September 4, 2015**~~[the effective date of this administrative regulation]~~.

(5) Continuing education shall be obtained from those providers approved by the board as provided in 815 KAR 6:080.

(6) An approved prelicensing course shall satisfy the initial fourteen (14) hour continuing education requirement.

(7) A maximum of three (3) hours per license year shall be awarded for teaching part of a home inspection credit course or home inspection continuing education course as applied to the appropriate content area established in subsection (3)(a) through (d) of this section.

(8) A maximum of three (3) hours per license year shall be awarded for appointment to the board for a board member who is licensed and who has attended not less than eighty (80) percent of the board meetings each license year as applied to the content area established in subsection (3)(b) of this section.

(9) A licensee shall not take the same continuing education course during a licensure period.

(10) A licensee may complete the required continuing education hours within the sixty (60) day grace period from the last day of the licensee's renewal month.

Section 6. Inactive License. (1) Placement of a license in inactive status.

(a)1. To place a license in inactive status, a licensee shall submit a notarized statement indicating the desire to have the license placed in inactive status.

2. This notarized statement shall be mailed to the board and shall be accompanied by:

- a. A check for ten (10) dollars made payable to the Kentucky State Treasurer;
- b. The actual license card of the licensee; and
- c. A current mailing address for the licensee.

(b) A licensee in inactive status shall not engage in home inspection activities within the Commonwealth of Kentucky.

(2) Renewal of license in inactive status.

(a) A licensee with an inactive license shall pay an annual inactive status fee equal to fifty (50) percent of the current renewal fee for an active license.

(b) Failure to pay this annual fee shall result in the expiration of the license on the last day of the licensee's birth month.

(3) Insurance coverage for licensees with inactive license. A licensee with an inactive status license shall not be required to maintain the insurance coverage required by KRS 198B.712(3)(d) during inactive status.

Section 7. Reactivation of Inactive License to Active Status. (1) A licensee who wishes to reactivate a license shall contact the board and submit a notarized statement requesting approval to return to active status.

(2) This request shall be accompanied by:

- (a) The name of the licensee requesting activation;
- (b) The license number of the licensee requesting reactivation;
- (c) The birth date of the licensee requesting reactivation;
- (d) A current mailing address for the licensee requesting reactivation;

(e) A check in the amount of ten (10) dollars made payable to the Kentucky State Treasurer;

(f) Proof of liability insurance naming the individual in the amount of \$250,000 as required by KRS 198B.712(3)(d);

(g) A state-wide criminal background check administered by a law enforcement agency capable of conducting a state-wide background check; and

(h) Proof of continuing education as required by Section 8 of

this administrative regulation.

(3) A license that has been inactive for a period of five (5) years from the date of board action shall be considered expired.

Section 8. Continuing Education Requirements for Licensees in Inactive Status Returning to Active Status. (1) Except as provided by subsection (2) of this section, a licensee with an inactive status who wishes to reactivate the license shall complete the continuing education requirements established in this subsection prior to application to return to active status. The licensee shall complete fourteen (14) hours per year that the license has been inactive, which shall include:

(a) ~~Two (2)~~~~Three (3)~~ hours in manufactured housing;

(b) Three (3) hours of KRS ~~198B.700 to 198B.738~~~~198B.780~~~~[Chapter 198B]~~ and 815 KAR Chapter 6; and

(c) ~~Nine (9)~~~~Eight (8)~~ hours, in any combination, of:

1. Electrical;
2. Plumbing;
3. Heating, ventilation, and air conditioning;
4. Roofing; or
5. Report writing.

(2) A board approved sixty-four (64) hour prelicensing training course may be used to satisfy the requirement established in subsection (1) of this section.

Section 9. Maintenance of Records. (1) Address.

(a) A license holder shall report a change of address to the board in writing within ten (10) days after the change.

(b) The board shall not be responsible for the license holder's failure to receive notices, communications, or correspondence caused by the license holder's failure to promptly notify the board of a change of address.

(2) Names.

(a) A license holder shall notify the board in writing of a name change within thirty (30) days of the change.

(b) The notification shall be accompanied by a copy of a marriage certificate, divorce decree, court order, or other documentation that verifies the name change.

(c) The board shall not be responsible for the license holder's failure to receive notices, communications, or correspondence caused by the license holder's failure to promptly notify the board of a name change.

(3) Inspection records.

(a) A licensed home inspector shall retain for at least three (3) years from the date of the inspection:

1. The written reports;
2. The contract; and
3. Supporting documentation, if applicable.

(b) Records may be retained in retrievable, electronic format.

(c) The licensee shall provide all records requested by the board within ten (10) days of receipt of the request.

Section 10. (1) The board may deny a license or refuse to renew or reactivate a license to an applicant or licensee who:

(a) Has entered a guilty plea to, pled guilty to, or been convicted of a:

1. Felony; or
2. Misdemeanor; or

(b) Has had disciplinary action taken against a professional license, certificate, registration, or permit held by the applicant or licensee in any jurisdiction or state, including Kentucky.

(2) The board shall base its decision on the seriousness of the offense or disciplinary action, the length of time since the offense or disciplinary action, and the applicant's or licensee's showing of remorse, rehabilitation, and restitution by clear and convincing evidence.

Section 11. The board shall deny a license or refuse to renew or reactivate a license to an applicant or licensee who fails to comply with a provision of KRS ~~198B.700 to 198B.738 or 815 KAR Chapter 6~~~~198B.780~~~~[Chapter 198B]~~~~[or this administrative regulation]~~.

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Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Application for Licensure[Initial Licensure Application]", Form KBHI-1, ~~2/2016/10/2015~~[July 2015];
- (b) "Application for Licensure/License Renewal[Licensure-as a Kentucky Home Inspector]", Form KBHI-2, ~~2/2016/10/2015~~[7/2014];
- (c) "Application for Licensure Reinstatement[License Reinstatement Application]", Form KBHI-6, ~~2/2016/10/2015~~[7/2014]; and
- (d) "Optional Affidavit for Licensure", Form KBHI-7, ~~2/2016/6/2015~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30[5] p.m.

MARK OERTHER, Board Chair

APPROVED BY AGENCY: March 15, 2016

FILED WITH LRC: March 15, 2016 at 11 a.m.

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(As Amended at ARRS, May 10, 2016)**

815 KAR 6:040. Home inspector preclicensing providers.

RELATES TO: KRS Chapter 165A, 198B.712, 198B.722, 198B.724

STATUTORY AUTHORITY: KRS 198B.706(2), (13), (15), 198B.712(2)(c), 198B.724

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738. KRS 198B.712(2)(c) requires an applicant to complete a board-approved course of study. This administrative regulation establishes the procedures for being approved by the board as a preclicensing provider.

Section 1. Preclicensing Course Provider Approval. An applicant to be a preclicensing course provider shall submit:

- (1) A completed~~[Pre-Licensing Course Provider]~~ Application for Pre-licensing Course Provider, form KBHI-3;
- (2) A \$500 nonrefundable application fee;
- (3) A copy of the Certificate of Approval from the Kentucky State Commission for Proprietary Education, if required by KRS Chapter 165A or proof that the applicant is exempt from licensure;
- (4) A syllabus of all courses that will be offered, which shall include the physical location of each laboratory and field training portion of the courses;
- (5) A list of all course instructors;
- (6) A copy of each brochure used to advertise the courses; and
- (7) A sample of the official transcript.

Section 2. Renewals. A provider's approval shall expire every two (2) years. To renew its approval, each provider shall file[submit] the application and fee required for initial approval.

Section 3. Required records. (1) Each provider shall maintain with respect to each course:

- (a) The time, date, and place each course is completed;
- (b) The name, address, and qualifications of each instructor who teaches any portion of the course and if each instructor has been approved by the board;
- (c) The name and address of each person who registered for the course;
- (d) The course syllabus used for each course; and
- (e) The course evaluations.

(2) The provider shall issue to each person who successfully completes an approved course, a certificate of completion containing:

- (a) The name of the attendee;
- (b) The name of the provider;
- (c) The course name;
- (d) The course number;
- (e) The date of the course; and
- (f) The total number of contact hours successfully completed in each subject covered by the course.

(3) Each provider shall maintain its records for at least three (3) years after the completion of each course. These records shall be submitted to the board or its agents upon request.

(4) Each provider shall submit to the board, in writing, notice of any changes in the information provided in the initial registration of the provider. The notification shall be made within thirty (30) days following the date the change is effective.

Section 4. Qualifications of Course Instructors. (1) Each course instructor shall be qualified, by education or experience, to teach the course, or parts of a course, to which the instructor is assigned.

(2) Any person with a four (4) year college degree or graduate degree, with at least two (2) years of work experience in that field, shall be qualified to teach a preclicensing course in that person's field of study.

(3) To qualify as an instructor based on experience, an individual shall:

- (a) Be licensed and have actively practiced for at least five (5) years as a home inspector; or
- (b) Have five (5) years of experience in a related field of home inspection or the building sciences.

(4) A licensee whose license is suspended or revoked as a result of board discipline shall not teach or serve as a course instructor during the time the license is suspended or revoked.

(5) A course provider may request prior approval by the board regarding the qualifications of a particular instructor for a particular course.

Section 5. Course Syllabus. (1) Each course shall have a course syllabus that identifies:

- (a) The name of the course;
 - (b) The number of the course assigned by the board;
 - (c) The name and address of the provider;
 - (d) A description or outline of the contents of the course; and
 - (e) The location of each course component.
- (2) Each person who registers for a course shall be given the course syllabus prior to the beginning of the course.

Section 6. Course Advertising. (1) A provider shall not advertise a course as approved until the approval is granted by the board.

(2) A provider shall not include any false or misleading information regarding the contents, instructors, location of classrooms or laboratory courses, or number of contact hours of any course approved under this administrative regulation.

(3) A provider shall include its provider number and course numbers in all advertising.

Section 7. Incorporation by Reference. (1) "Application for Pre-Licensing Course Provider[Preclicensing Course Provider Application]", Form KBHI-3, ~~2/2016/10/2015~~[11/2014], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM CHANDLER, Board Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at 9 a.m.

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(As Amended at ARRS, May 10, 2016)**

815 KAR 6:080. Continuing education provider.

RELATES TO: KRS 198B.712, 198B.722, 198B.724
STATUTORY AUTHORITY: KRS 198B.706(15),
198B.712(3)(c), 198B.724

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for continuing education. KRS 198B.724 requires the board to establish continuing education requirements. This administrative regulation establishes the procedures for being approved as a continuing education provider.

Section 1. Preapproval of Continuing Education Hours. (1) An entity seeking to obtain approval of a continuing education course prior to its offering shall submit ~~an~~[a Continuing Education – Provider] Application for Continuing Education Course Provider, form KBHI-4, to the board at least thirty (30) days prior to the next regularly scheduled board meeting and provide:

- (a) A completed ~~[Continuing Education – Course] Application for Continuing Education Course, form,~~ KBHI-5;
- (b) A published course description;
- (c) A copy of the course agenda indicating hours of education and breaks;
- (d) The number of continuing education hours requested;
- (e) The name and address of competent instructors, as documented by academic training, professional licensure or certification, or professionally recognized experience;
- (f) An official certificate of completion; and
- (g) A \$500 fee, which shall be a two (2) year course provider approval fee.

(2) The board shall approve continuing education courses that appropriately relate to the technical skills required of licensees, containing sufficient educational content to improve the quality of licensee performance and that comply with this administrative regulation.

(3) If a course is approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

(4) The board may approve a course for hours different than the provider's request.

Section 2. Duration of Approval. (1) Continuing education course approval shall be valid for two (2) years from date of issue if no substantial change is made in the course and the board has not imposed discipline upon the provider or its instructors.

(2) Substantial changes, such as a change in the agenda, published course description, or instructor, made in any course shall require a new approval of that course. A provider shall apply for course approval forty-five (45) days prior to the date of expiration of the original course approval.

Section 3. Denial of Application. Unless a denial is being considered pursuant to 815 KAR 6:090, a course that has been denied may be resubmitted to the board after adopting the suggested modifications provided by the board.

Section 4. Subsequent Approval of Continuing Education Course. A licensee may request approval for continuing education activities not approved by the board. The request shall be as set forth in Section 1 of this administrative regulation. The licensee shall submit documentation of attendance and participation in the form of official documents, including transcripts, certificates, affidavits signed by instructors, and receipts for fees paid to the provider, for the board to review.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Continuing Education Course[-] Provider[Application]", Form KBHI-4, ~~2/2016/10/2015~~[11/2014]; and

(b) "Application for Continuing Education[-] Course[Application]", Form KBHI-5, ~~2/2016/10/2015~~[11/2014].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM CHANDLER, Board Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at 9 a.m.

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(As Amended at ARRS, May 10, 2016)**

815 KAR 6:090. Procedures for complaints and administrative hearings.

RELATES TO: KRS 198B.706(3), (4), (12), 198B.712, 198B.722, 198B.728, 198B.730

STATUTORY AUTHORITY: KRS 198B.706(1), (3), (12), (15)

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(4) requires the board to investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738, and, if appropriate, take action in accordance with KRS 198B.728 and 198B.730. KRS 198B.730(1) requires the board to schedule and conduct an administrative hearing in accordance with the provisions of KRS Chapter 13B. KRS 411.272(2) requires KRS 411.270 to 411.282 to prevail over any conflicting law otherwise applicable to any action, claim or cause of action against a home inspector, with specified exceptions. KRS 198B.728 requires the board to take disciplinary actions against or impose sanctions on a licensee for failing to comply with any provision of KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738. KRS 198B.706(1) requires the board to find the requirements for and prescribe the form of documents that are required by KRS 198B.700 to 198B.738. KRS 198B.706(15) requires the board to promulgate administrative regulations to carry out the requirements of KRS 198B.700 to 198B.738. This administrative regulation establishes supplemental administrative hearing procedures for matters before the commission and the required forms for a complaint or answer.

Section 1. Complaint Screening Committee. (1) The committee shall consist of three (3) board members, appointed by the chair of the board to:

- (a) Review complaints and investigative reports;
- (b) Participate in informal proceedings to resolve formal complaints; and
- (c) Make recommendations for disposition of complaints to the full board.

(2) The committee may be assisted by the board staff and counsel to the board.

Section 2. Complaint Process and Disciplinary Action Against a Licensee. (1) The board shall~~may~~ investigate complaints related to violations of this administrative regulation and may:

- (a) Deny issuance of a license;

- (b) Refuse to renew a license;
- (c) Refuse to reinstate a license;
- (d) Establish probation of a license;
- (e) Suspend a license;
- (f) Revoke a license;
- (g) Issue a public or private written reprimand; or
- (h) Subject the license to a combination of one (1) or more penalties established in paragraphs (a) through (g) of this subsection.

(2) A complaint may be initiated by the board, an individual, an entity, or any governmental agency. It shall be completed on a Complaint Form, KBHI-7, and shall:

- (a) State the basis of the complaint fully and concisely, including the name of the person who the complaint is against;
- (b) Include any documentation in support of the complaint; and
- (c) If the complaint is initiated by the public, be notarized by a notary public.

(3) A copy of the initiating complaint shall be mailed to the licensee to his or her last known address on file with the board. The licensee shall file a written response to the initiating complaint with the board within twenty-one (21) days of the date on which the initiating complaint was mailed. The written response shall:

- (a) Identify the respondent;
- (b) State his or her response to the complaint;
- (c) Include any documentation in dispute of the complaint;
- (d) If applicable, state if he or she proposes to inspect the residence that is the subject of the claim and to complete the inspection within twenty-one (21) calendar days of the date on which the initiating complaint was mailed. Any proposal shall include the statement that the home inspector shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim; offer to compromise and settle the claim by monetary payment without inspection; or state that the home inspector disputes the claim; and
- (e) Be notarized by a notary public.

(4) Once the written response is received, the complaint screening committee shall review the case. The committee shall report the committee's findings and recommendations to the board. The board shall:

- (a) Dismiss the complaint and notify the person making the complaint and the licensee that no further action shall be taken at the present time;
 - (b) Find an investigation is warranted; or
 - (c) Find a violation of a provision of KRS 198B.700 to 198B.738 or 815 KAR Chapter 6 and issue notice of disciplinary action to the licensee.
- (5)(a) The board may appoint any of its members or any agent or representative of the board to conduct an investigation of the complaint.
- (b) Upon the completion of the investigation, the person or persons making that investigation shall submit a written report to the board containing a succinct statement of the facts disclosed by the investigation.
 - (c) Based on consideration of the complaint and the investigative report, if any, the board shall find if there has been a prima facie violation of a provision of KRS 198B.700 to 198B.738 or 815 KAR Chapter 6.

(d) If the investigator is a member of the board, he or she shall not vote.

(e) If it is found that the facts alleged in the initiating complaint or investigative report do not constitute a prima facie violation of **KRS 198B.700 to 198B.738 or 815 KAR Chapter 6 [the statutes or administrative regulations]**, the board shall notify the person making the complaint and the licensee that no further action shall be taken at the present time.

(6) If it is found that there is a prima facie violation of a provision of KRS 198B.700 to 198B.738 or 815 KAR Chapter 6, the board shall issue written notice of disciplinary action sent to the licensee's address on file with the board and inform the licensee:

- (a) Of the specific reason for the board's action, including:
 1. The statutory or regulatory violation; and
 2. The factual basis on which the disciplinary action is based;
- (b) Of the penalty imposed; and

(c) That the licensee may **request an administrative hearing off[appeal]** the penalty to the board within twenty (20) calendar days of the date of the board's notice.

(7) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(8) If the request for an **administrative hearing[appeal]** is not timely filed, the notice of disciplinary action shall be effective upon the expiration of the time for the licensee to request an **administrative hearing[appeal]**.

(9) A complaint initiated by the public shall be filed within one (1) year of the date the complainant knew or should have known of a violation of a provision of KRS 198B.700 to 198B.738 or a provision of 815 KAR Chapter 6 by the licensee.

(10) The complainant may withdraw a complaint, and thereby render the complaint null, void, and without effect, if:

(a) An answer has not been filed in accordance with this section;

(b) The withdrawal is made within twenty (20) days of the date the complaint was filed; or

(c) [There is good cause for the withdrawal and the board approves] The withdrawal would not result in harm to the public.

(11) A complaint that has been withdrawn[dismissed] shall not be refiled or reheard.

Section 3. Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may, at any time during the complaint process established in Section 2 of this administrative regulation, enter into informal proceedings with the licensee who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 4. Disciplinary Action Against a Prelicensing Provider or Continuing Educational Provider. (1) The board may deny, suspend, probate, or revoke the registration of any prelicensing course provider **or continuing educational provider** for:

(a) Obtaining or attempting to obtain registration or approval through fraud, deceit, false statements, or misrepresentation;

(b) Failing to provide complete and accurate information in the initial registration or in any notification of change in information;

(c) Failing to timely notify the board of a change in the information required for registration of the provider;

(d) Falsifying of any records regarding the courses conducted by the provider or the persons who attended the courses offered;

(e) Failing to maintain any required records regarding course offerings conducted by the provider or the persons who attended the course;

(f) Failing to adequately train the staff responsible for taking attendance at any approved course;

(g) Failing to provide the board with copies of any document or other information required to be maintained by the provider pursuant to this administrative regulation;

(h) Advertising that a provider has been approved by the board prior to the date the approval is granted;

(i) Failing to include provider and course numbers in advertisements;

(j) Failing to maintain a record of instructors;

(k) Failing to resolve attendance reporting problems; or

(l) Failing to comply with any other duty established for providers in 815 KAR 6:040 or 815 KAR 6:080.

(2) The board shall issue written notice of disciplinary action sent to the prelicensing course or continuing educational provider's address on file with the board and inform the provider:

(a) Of the specific reason for the board's action, including:

1. The statutory or regulatory violation; and

2. The factual basis on which the disciplinary action is based;
 (b) Of the disciplinary action being taken by the board; and
 (c) That the provider may **request an administrative hearing of[appeal]** the disciplinary action to the board within ten (10) calendar days of the date of the board's notice.

(3) A written request for an administrative hearing shall be postmarked to the board within ten (10) calendar days of the date of the board's notice.

(4) If the request for an **administrative hearing[appeal]** is not timely filed, the notice of disciplinary action shall be effective upon the expiration of the time for the licensee to request an **administrative hearing[appeal]**.

(5) A provider whose registration has been revoked shall not reapply for registration for two (2) years from the date of revocation.

Section 5. Right of **Administrative Hearing[Appeal]** from a Denial of or Refusal to Renew or Reinstate a License. (1) The board shall issue written notice of the denial informing the applicant:

(a) Of the specific reason for the board's action, including:

1. The statutory or regulatory violation; and
2. The factual basis on which the denial is based; and

(b) That the applicant may **request an administrative hearing of[appeal]** the pending denial to the board within twenty (20) calendar days after receipt of this notification, excluding the day he or she receives notice.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an **administrative hearing[appeal]** is not timely filed, the notice of denial shall be effective upon the expiration of the time for the certificate holder to request an **administrative hearing[appeal]**.

Section 6. Revocation of Probation. (1) If the board moves to revoke probation, the board shall issue written notice of the revocation and inform the probationee:

- (a) Of the factual basis on which the revocation is based;
- (b) Of each probation term violated; and
- (c) That the probationee may **request an administrative hearing of[appeal]** the revocation to the board within twenty (20) calendar days of the date of notification of revocation. The notification shall be sent to the last known address on file with the board for the certificate holder.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an **administrative hearing[appeal]** is not timely filed, the notice of revocation shall be effective upon the expiration of the time for the certificate holder to request an **administrative hearing[appeal]**.

Section 7. Summary Suspension. The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during the administrative hearing(an appeal) of the board's determination if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

Section 8. Unauthorized Practice and Claims. (1) On the written complaint[~~of any person.~~] submitted to the board[~~on board-approved forms~~] that ~~requires~~[require] notarized statements sworn under the penalties of perjury, as set out in Section 1 of this administrative regulation, the board shall investigate the actions of any person who acts, or is believed to have acted, in the capacity of a licensee or who engages in activities for which a home inspector license is required, as set forth in KRS 198B.712, or who is believed to have engaged in prohibited activities specified in KRS 198B.732, if

the complaint, together with any evidence presented in connection with it, alleges a case that a prima facie violation of KRS 198B.712 or 198B.732 has been committed.

(2)(a) If the board[~~:- (a)] determines that an individual is not licensed under KRS 198B.700 to 198B.738 and is engaged in or believed to be engaged in activities for which a license is required under KRS 198B.700 to 198B.738, the board shall issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from the activities. The show cause order shall set forth a date, time, and place for a hearing at which the individual shall appear and show cause why the individual should not be subject to inspector licensing under KRS 198B.700 to 198B.738.[;]~~

(b) If the board, after a hearing, determines that the activities in which the individual is engaged are subject to licensing under KRS 198B.700 to 198B.738, the board may issue a cease and desist order that identifies the individual and describes activities that are the subject of the order.

Section 9. Cease and Desist Orders. A cease and desist order issued under this section shall be enforceable in the circuit court of the county where the board's office is located, the circuit court of the county where the violation occurred, or any other circuit court of the commonwealth.

Section 10. Any request for an administrative hearing shall be sent to the Board of Home Inspectors by mail to P.O. Box 1360, Frankfort, Kentucky 40602 or by delivery to 911 Leewood Drive, Frankfort, Kentucky 40601.

Section 11.[8-] Each **administrative hearing[appeal]** shall be governed in accordance with KRS Chapter 13B.

Section 12.[9-] Each **administrative hearing[appeal]** shall be limited to the specific issues in dispute identified in the request for an administrative hearing.

Section 13.[10-] Incorporation by Reference. (1) "Complaint Form", Form KBHI-7, 7/2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Home Inspectors, 911 Leewood Drive, Frankfort, Kentucky, phone (502) 564-3296, Monday through Friday, 8:30 a.m. to 5 p.m.

MARK OERTHER, Board Chair
 APPROVED BY AGENCY: March 15, 2016
 FILED WITH LRC: March 15, 2016 at 11 a.m.
 CONTACT PERSON: Megan Woodson, Board Administrator,
 Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leewood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Heating, Ventilation and Air Conditioning
(As Amended at ARRS, May 10, 2016)

815 KAR 8:095. Vehicle identification.

RELATES TO: KRS 198B.670
 STATUTORY AUTHORITY: KRS 198B.654(1)
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654(1) requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.650 to 198B.689. KRS 198B.670 requires a master heating, ventilation, and air conditioning contractor's license number to appear on all vehicles used by the licensee for heating, ventilation, and air conditioning work. This administrative regulation establishes the identification requirements for all vehicles used in connection with heating, ventilation, and air conditioning work.

Section 1. Vehicle Identification. (1) Each vehicle used in the

operation of a heating, ventilation, and air conditioning company or business shall be identified as established in this administrative regulation.

(2) Each vehicle shall bear the name of the company or business and the master heating, ventilation, and air conditioning contractor's Kentucky license number.

(3) All identification required by this administrative regulation shall be in letters not smaller than three (3) inches high and shall be legible **[at all times]**.

STEVEN A. MILBY, Chairman

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: February 22, 2016

FILED WITH LRC: February 24, 2016 at 10 a.m.

CONTACT PERSON: Victoria M. Kadreva Holmes, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, May 10, 2016)

815 KAR 20:084. Storage and installation of cross-linked polyethylene piping.

RELATES TO: KRS 198B.050, 318.010, 318.015, 318.130, 318.150

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after review by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation establishes the requirements for the storage, handling, and installation of standard dimension ratio (SDR) 9 cross-linked polyethylene pipe and fittings.

Section 1. Definitions. (1) "ASSE" means American Society of Sanitary Engineers.

(2) "ASTM" means American Society for Testing Materials.

(3) "PEX" means cross-linked polyethylene pipe.

(4) "PEX-AL-PEX" means polyethylene/aluminum/cross-linked polyethylene composite pressure pipe.

Section 2. Material. (1) PEX that is to be used for cold water only shall be produced and labeled **as established by[meeting]** ASTM F-876.

(2) Cross-linked polyethylene (PEX) that is to be used for either cold water or hot water shall be produced and labeled **as established by[meeting]** ASTM F-877.

(3) PEX-AL-PEX shall be produced and labeled **as established by[meeting]** ASTM F-1281.

(4) Cold expansion fittings with PEX reinforcing rings for use with PEX tubing shall be produced and labeled **as established by[meeting]** ASTM F-1960.

(5) Metal insert fittings utilizing a copper crimp ring shall be produced and labeled **as established by[meeting]** ASTM F-1807.

(6) Stainless steel clamps substituted for the copper crimp ring shall be produced **as established by[meeting]** ASTM F-2098.

(7) Plastic insert fittings for PEX shall be produced **as established by[meeting]** ASTM F-2159.

(8) Push fit fittings for PEX shall be produced **as established by[meeting]** ASSE 1061.

(9) Metal insert fittings for cross-linked polyethylene/aluminum/cross-linked polyethylene composite pressure pipe shall be produced **as established by[meeting]** ASTM F-1974.

(10) Metal insert fittings utilizing a copper crimp ring for PEX-AL-PEX shall be produced **as established by[meeting]** ASTM F-2434.

Section 3. Storage and Handling. (1) PEX shall not be stored

where it will be exposed to direct or indirect ultraviolet light (**[i.e.]** sunlight).

(2)(a) PEX shall not be exposed to materials that affect the basic properties of cross-linked polyethylene, brass, or copper.

(b) Chemicals, pipe thread compounds, putty, and mineral or linseed oil compounds shall not **[be allowed to]** contact the pipe.

Section 4. Installation. (1) Water Service Installation.

(a) Tubing shall be snaked in the ditch to allow for linear expansion and contraction.

(b) 1. Tubing shall not be installed in contaminated soils.

2. PEX shall not be installed in areas of known soil contamination or where there is a high risk of chemical spills such as organic solvents or petroleum distillates.

(c) Metallic fittings other than those consisting of red brass shall be protected from the soil to prevent corrosion.

(d) The number of fittings shall be kept to a minimum.

(e) The bottom of the trench shall be flat and free of rocks, hollows, or other sharp objects.

(f) **[If/When]** placed in soil consisting of rock, piping shall be covered with six (6) inches of coarse sand or pea gravel.

(g) **[If/When]** passing through a foundation wall, a rigid sleeve that spans the distance from within the wall out to the undisturbed soil shall be used to prevent shearing of the tubing.

(2) Distribution System.

(a) **[If/When]** PEX is to be buried under a building, fittings shall not be used.

(b) PEX passing through a concrete slab or wall shall be protected by use of sleeves.

(c) PEX passing through metal studs or plates shall be protected by plastic grommets designed for this purpose.

(d) PEX shall not be used in operating conditions inconsistent with pressure ratings that appear on the tubing and the applicable ASTM standard.

(e) PEX shall not be installed:

1. Where it may be exposed to direct or indirect ultraviolet light (**[i.e.]** sunlight);

2. Where it may be exposed to open flame;

3. With or exposed to petroleum based caulking or sealants;

4. Where it may be subjected to prolonged exposure to free chlorine concentrations greater than four (4) ppm;

5. Within twelve (12) inches of any recessed light fixture; or

6. Within six (6) inches of any gas appliance metallic vent.

(f) PEX shall be tested under a pressure not to exceed 100 pounds per square inch nor less than forty (40) pounds per square inch.

Section 5. Hangers and Supports. (1) Cross-linked polyethylene (PEX) sizes one (1) inch and smaller installed horizontally shall be supported at intervals not to exceed thirty-two (32) inches.

(2) PEX sizes 1-1/4" and larger installed horizontally shall be supported at intervals not to exceed forty-eight (48) inches.

(3) PEX installed vertically shall be supported at the base of each story with a mid-story guide.

(4) PEX shall not be rigidly anchored but shall be installed to allow room for proper expansion and contraction of the tubing.

(5) Hangers or strapping shall be constructed of plastic material or be coated to prevent damage to the tubing.

(6) PEX-AL-PEX installed horizontally shall be supported at intervals not to exceed ninety-eight (98) inches.

(7) Cross-linked polyethylene/aluminum/cross-linked polyethylene installed vertically shall be supported at the base of each story with a mid-story guide.

STEVEN A. MILBY, Chairman

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 8, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

CONTACT PERSON: Samuel I. Thorner, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

VOLUME 42, NUMBER 12 – JUNE 1, 2016

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, May 10, 2016)

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS 58.200, 318.160

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after approval by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. KRS 58.200(2) requires newly-constructed public buildings to be equipped with twice the number of restroom facilities for use by women as is provided for use by men. This administrative regulation establishes the minimum plumbing fixture requirements for buildings in Kentucky.

Section 1. Definitions. (1) "Developed travel distance" means the length of a pathway measured along the center line of the path.

(2) "Mobile facility" means a vehicle licensed and registered with the Kentucky Department of Transportation that contains plumbing fixtures and is intended for temporary use with regard to the structure it serves.

(3) "Modular" means a structure or component that is wholly or in substantial part fabricated in an off-site manufacturing facility for installation at the building site.

(4) "Temporary" means a period of time not to exceed thirty (30) days of intermittent or continual use within a twelve (12) month period on the same premises.

Section 2. General Requirements. (1) In a building accommodating males and females, it shall be presumed that the occupants will be equally divided between males and females, unless otherwise denoted.

(2) The occupancy load factor used to determine the total number of plumbing fixtures required in a building shall be the load denoted in the Kentucky Building Code, incorporated by reference in 815 KAR 7:120.

(3) All types of buildings shall be provided with toilet rooms on each level or floor, unless:

(a) Separate facilities on each level or floor are unnecessary; and

(b) Toilet rooms on every other level or floor shall be sufficient.

(4) Unisex Facilities in Historic Buildings. A building or structure that is listed in the National Register of Historic Places or designated as historic under Kentucky statute may provide the required number of plumbing fixtures in unisex facilities if the overall occupant load is 100 persons or less, except as required in Sections 7, 8, 9, 12, 13, 15, 16, and 17 of this administrative regulation.

(5) Unisex facilities in historic buildings permitted by this section shall not be required to provide the urinals.

(6) Toilet rooms for males, females, and unisex shall be clearly marked.

(7) Upon written request, the department shall[~~may~~] permit the temporary use of a mobile facility in accordance with this administrative regulation[~~mobile facilities~~]. The written request shall be submitted to the Division of Plumbing and shall include the:

(a) [~~The~~]Name of the owner;

(b) [~~The~~]Address of the location of the building being served by the mobile facilities; and

(c) [~~The~~]Dates for which the mobile facilities are to be used.

Section 3. Toilet Floor Construction Requirements. (1) Floors in toilet rooms shall be constructed of nonabsorbent materials.

(2) If a wood floor is used, the wood floor shall be covered by other nonabsorbent materials.

(3) If two (2) or more fixtures that receive human waste are installed, the toilet room shall have at least:

- (a) One (1) floor drain; and
- (b) One (1) accessible hose bibb.

Section 4. Facilities for Stages. (1) A separate water closet and lavatory shall be provided for males and females in the stage area.

(2) A drinking fountain shall be provided in the stage and auditorium area.

Section 5. Theaters, Assembly Halls, and Similar Occupancies. Separate toilet rooms for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation. (1) Water closets and urinals for males.

(a) Water closets for males shall be installed with at least:

- 1. One (1) water closet for each 100 males;
- 2. Two (2) water closets for 101 to 200 males;
- 3. Three (3) water closets for 201 to 400 males; and
- 4. If over 400 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof.

(b) Urinals for males shall be installed with at least:

- 1. One (1) urinal for eleven (11) to 100 males;
- 2. Two (2) urinals for 101 to 300 males;
- 3. Three (3) urinals for 301 to 600 males; and
- 4. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.

(2) Water closets for females. Water closets for females shall be installed with at least:

- (a) One (1) water closet for each fifty (50) females;
- (b) Two (2) water closets for fifty-one (51) to 100 females;
- (c) Three (3) water closets for 101 to 150 females;
- (d) Four (4) water closets for 151 to 200 females; and
- (e) If over 200 females, four (4) water closets plus one (1) additional water closet for each additional 150 females or fraction thereof.

(3) Lavatories for Males or Females. Lavatories shall be installed with at least:

- (a) One (1) lavatory for up to 100 persons;
- (b) Two (2) lavatories for 101 to 200 persons;
- (c) Three (3) lavatories for 201 to 400 persons;
- (d) Four (4) lavatories for 401 to 750 persons; and
- (e) If over 750 persons, four (4) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof.

(4) Sinks. There shall be at least one (1) service sink or slop sink on each floor.

(5) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.

(6) Drinking fountain. At least one (1) drinking fountain shall be provided on each floor for each 500 persons or fraction thereof.

(7) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 6. Libraries, Museums, and Art Galleries. Separate toilet facilities for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation:

(1) There shall be at least one (1) water closet and one (1) lavatory for each 100 females or fraction thereof.

(2) Except as established in subsection (7) of this section, there shall be at least one (1) water closet and one (1) lavatory for each 200 males or fraction thereof.

(3) There shall be at least:

- (a) One (1) urinal for eleven (11) to 200 males;
- (b) Two (2) urinals for 201 to 400 males;
- (c) Three (3) urinals for 401 to 600 males; and
- (d) If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.

(4) There shall be at least one (1) service sink or slop sink on each floor.

(5) At least one (1) drinking fountain shall be provided for each 500 persons or fraction thereof.

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(6) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity of fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person for each fifteen (15) square feet of area.

(7) Urinals may be substituted for water closets for males if:

(a) The substituted urinals do not exceed one-third (1/3) of the required total number of water closets; and

(b) The minimum number of urinals is installed.

(8) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 7. School Buildings Not Including Higher-Education Facilities. A school building shall be in compliance with the requirements established in 702 KAR 4:170 and this section. (1) Drinking fountains.

(a) At least one (1) drinking fountain shall be provided on each floor and wing of a building.

(b) At least one (1) additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof.

(c) The drinking fountains shall be equipped with:

1. A protective cowl; and

2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school buildings shall be provided with the following:

(a) Water closets for males shall be installed with at least:

1. One (1) water closet for up to twenty-five (25) pupils;

2. Two (2) water closets for twenty-six (26) to 100 pupils; and

3. If over 100 pupils, two (2) water closets plus one (1) additional water closet for each additional 100 pupils or fraction thereof;

(b) Urinals for males shall be installed with at least:

1. One (1) urinal for up to twenty-five (25) pupils;

2. Two (2) urinals for twenty-six (26) to fifty (50) pupils;

3. Four (4) urinals for fifty-one (51) to 100 pupils;

4. Six (6) urinals for 101 to 200 pupils;

5. Eight (8) urinals for 201 to 300 pupils;

6. Ten (10) urinals for 301 to 400 pupils;

7. Twelve (12) urinals for 401 to 500 pupils; and

8. If over 500 pupils, twelve (12) urinals plus one (1) additional urinal for each additional fifty (50) pupils or fraction thereof in excess of 500;

(c) Water closets for females shall be installed with at least:

1. Two (2) water closets for up to twenty-five (25) pupils;

2. Three (3) water closets for twenty-six (26) to fifty (50) pupils;

3. Six (6) water closets for fifty-one (51) to 100 pupils;

4. Eight (8) water closets for 101 to 200 pupils;

5. Ten (10) water closets for 201 to 300 pupils;

6. Twelve (12) water closets for 301 to 400 pupils;

7. Fourteen (14) water closets for 401 to 500 pupils; and

8. If over 500 pupils, fourteen (14) water closets plus one (1) additional water closet for each additional forty (40) pupils or fraction thereof; and

(d)1. Lavatories for male and female pupils shall be installed with at least:

a. One (1) lavatory for each twenty-five (25) pupils or fraction thereof; and

b. If over fifty (50) pupils, two (2) lavatories plus one (1) additional lavatory for each additional fifty (50) pupils or fraction thereof; and

2. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin, if provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) At least one (1) service sink or slop sink shall be installed on each floor of a building.

(4) If detached modular classrooms are used, sanitary facilities shall not be required, if:

(a) The entrance of the modular classroom for elementary grades through the fifth grade is within a developed travel distance not to exceed 100 feet from the accessible entrance to the main structure or an approved central modular restroom;

(b) The entrance of the modular classroom for sixth grade and above is within a developed travel distance not to exceed 200 feet,

from the accessible entrance to the main structure or an approved central modular restroom;

(c) The travel path meets the accessibility requirements established in the Kentucky Building Code, 815 KAR 7:120; and

(d) There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the modular classrooms.

(5) Water closets in a school building shall be of the elongated bowl type with a split open front seat.

Section 8. Schools of Higher Education and Similar Educational Facilities. (1)(a) Except as established in paragraph (b) of this subsection, in a school of higher education or a similar education facility, there shall be installed at least:

1. One (1) water closet for each fifty (50) males and one (1) water closet for each twenty-five (25) females or fraction thereof;

2. One (1) lavatory for each fifty (50) persons or fraction thereof;

3. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof; and

4. One (1) urinal for each fifty (50) males or fraction thereof.

(b) One (1) water closet less than the number specified in paragraph (a) of this subsection may be provided for each urinal installed except that the number of water closets in those cases shall not be reduced to less than two-thirds (2/3) of the minimum specified.

(2) Water closets in a school of higher education or a similar education facility shall be of the elongated bowl type with a split open front seat.

Section 9. Public Garages and Service Stations. (1) Separate toilet rooms for males and females shall be provided with at least:

(a) A water closet and lavatory for females; and

(b) A water closet, lavatory, and urinal for males.

(2) Water closets shall be of the elongated bowl type with a split open front seat.

Section 10. Churches. (1) Sanitary facilities shall be provided in a church with at least:

(a) One (1) drinking fountain for each 400 persons or fraction thereof;

(b) One (1) water closet for each 150 females or fraction thereof;

(c) One (1) water closet for each 300 males or fraction thereof;

(d) One (1) urinal for fifty (50) to 150 males or fraction thereof;

(e) One (1) additional urinal for each additional 150 males or fraction thereof; and

(f) One (1) lavatory for each 150 persons or fraction thereof.

(2) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 11. Transient Lodging Facilities. A transient lodging facility shall be in compliance with the requirements established in 902 KAR 10:010 and this section. (1) A hotel or motel with private rooms shall have at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(2) In the public and service areas, there shall be at least:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof;

(b) One (1) water closet for each fifteen (15) females or fraction thereof;

(c) One (1) lavatory for each twenty-five (25) persons or fraction thereof;

(d) One (1) urinal for eleven (11) to 100 males plus one (1) additional urinal for each additional fifty (50) males or fraction thereof;

(e) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof on each floor; and

(f) One (1) service sink or slop sink on each floor.

(3) In residential-type buildings, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

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(5) In rooming houses without private baths, there shall be at least:

- (a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) males or fraction thereof;
- (b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) females or fraction thereof;
- (c) One (1) urinal for eleven (11) to 100 males and one (1) for each additional fifty (50) males or fraction thereof;
- (d) One (1) lavatory for each ten (10) persons or fraction thereof; and
- (e) One (1) bathtub or shower for each ten (10) persons or fraction thereof.

Section 12. Dormitories: School, Labor, or Institutional. (1) Water closets. There shall be at least:

(a) One (1) water closet for up to ten (10) males plus one (1) additional water closet for each additional twenty-five (25) males or fraction thereof; and

(b) One (1) water closet for up to eight (8) females plus one (1) additional water closet for each additional twenty (20) females or fraction thereof.

(2) Urinals.

(a) There shall be at least:

1. One (1) urinal for each twenty-five (25) males or fraction thereof up to 150 males; and

2. If there are over 150 males, one (1) additional urinal for each additional fifty (50) males or fraction thereof.

(b) If urinals are provided, a urinal may be substituted for a water closet, not to exceed one-third (1/3) of the required total number of water closets.

(c) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) Lavatories. There shall be at least one (1) lavatory for one (1) to twelve (12) persons, with an additional one (1) lavatory for each additional twenty (20) males and fifteen (15) females or fraction thereof.

(4) Additional fixtures. There shall be at least:

(a)1. One (1) bathtub or shower for each eight (8) persons or fraction thereof, up to 150 persons; and

2. If there are over 150 persons, one (1) additional bathtub or shower for each twenty (20) persons;

(b) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof;

(c) One (1) laundry tray or clothes washer for each fifty (50) persons or fraction thereof; and

(d) One (1) service sink or slop sink for each 100 persons or fraction thereof.

(5) If the dormitory is located in a youth camp, the requirements of 902 KAR 10:040 shall apply in addition to the requirements established in this section.

Section 13. Hospitals, Nursing Homes, and Institutions. A hospital, nursing home, or institution shall comply with the requirements established in 902 KAR 20:031, **902 KAR** 20:046, **902 KAR** 20:056, and **902 KAR** 9:010. Sanitary facilities shall be provided on each floor level and shall conform to this section. (1) Hospitals.

(a) Wards. There shall be at least:

1. One (1) water closet for each ten (10) patients or fraction thereof;

2. One (1) lavatory for each ten (10) patients or fraction thereof;

3. One (1) tub or shower for each fifteen (15) patients or fraction thereof; and

4. One (1) drinking fountain for each 100 patients or fraction thereof.

(b) Individual rooms. There shall be at least one (1) water closet, one (1) lavatory, and one (1) tub or shower.

(c) Waiting rooms. There shall be at least one (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal). There shall be at least:

(a) One (1) water closet for each twenty-five (25) males or

fraction thereof;

(b) One (1) water closet for each twenty (20) females or fraction thereof;

(c) One (1) lavatory for each ten (10) persons or fraction thereof;

(d) One (1) urinal for each fifty (50) males or fraction thereof;

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof;

(f) One (1) drinking fountain on each floor; and

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal.

(a) Cell. There shall be at least:

1. One (1) prison-type water closet; and

2. One (1) prison-type lavatory.

(b) Day rooms and dormitories.

1. There shall be at least:

a. One (1) water closet for each eight (8) female inmates or fraction thereof and one (1) water closet for each twelve (12) male inmates or fraction thereof;

b. One (1) lavatory for each twelve (12) inmates or fraction thereof;

c. One (1) shower for each fifteen (15) inmates or fraction thereof;

d. One (1) drinking fountain per floor; and

e. One (1) service sink or slop sink per floor.

2. For males, one (1) urinal may be substituted for each water closet if the number of water closets is not reduced to less than one-half (1/2) the number required.

(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(d) There shall be at least one (1) drinking fountain on each floor.

(e) There shall be at least one (1) service sink or slop sink per floor.

Section 14. Workshops, Factories, Mercantile, and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted. (1) Workshops and factories: Sanitary facilities shall conform to the following:

(a) There shall be at least:

1. One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100;

2. One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100;

3. One (1) urinal for eleven (11) to fifty (50) employees;

4. Two (2) urinals for fifty-one (51) to 100 employees;

5. One (1) lavatory for each twenty-five (25) females or fraction thereof up to 100; and

6. One (1) water closet for each fifteen (15) females or fraction thereof up to 100;

(b) If in excess of 100 persons, there shall be at least:

1. One (1) additional water closet for each additional thirty (30) males and each additional thirty (30) females or fraction thereof;

2. One (1) additional lavatory for each additional fifty (50) males and females or fraction thereof; and

3. One (1) additional urinal for each additional 100 males or fraction thereof;

(c) There shall be at least:

1. One (1) shower for each fifteen (15) persons or fraction thereof, exposed to skin contamination from irritating, infectious, or poisonous materials;

2.a. One (1) drinking fountain on each floor for each fifty (50) employees or fraction thereof, up to 100 employees; and

b. If there are more than 100 employees, there shall be an additional drinking fountain on each floor for each additional seventy-five (75) employees or fraction thereof; and

3. One (1) service sink or slop sink per floor; and

(d)1. Individual sinks or wash troughs may be used in lieu of lavatories.

2. Twenty-four (24) inches of sink or trough, if provided with water, or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

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(2) Mercantile.

(a) Employees.

1. Except as provided in subparagraph 2 of this paragraph, sanitary facilities within each store shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For a store containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or accessible areas having a travel distance of not more than 500 feet within the building in which the store is located.

(b) Customers.

1. Sanitary facilities shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed in individual stores or in a central toilet room area or areas, if:

a. The distance from the main entrance of a store does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Sanitary facilities shall be provided as stated in this section and there shall be at least:

1. One (1) water closet for one (1) to 150 males;

2. Two (2) water closets for 151 to 300 males;

3. Three (3) water closets for 301 to 450 males;

4. If over 500 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof;

5. One (1) urinal for fifty (50) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 300 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) water closet for one (1) to 100 females;

10. Two (2) water closets for 101 to 200 females;

11. Three (3) water closets for 201 to 400 females;

12. If over 400 females, three (3) water closets plus one (1) additional water closet for each additional 300 females or fraction thereof;

13. One (1) lavatory for one (1) to 200 persons;

14. Two (2) lavatories for 201 to 400 persons;

15. Three (3) lavatories for 401 to 700 persons;

16. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof; Three (3) lavatories plus one (1) lavatory for each 500 persons, or fraction thereof, in excess of 700;

17. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

18. One (1) service sink or slop sink per floor.

(3) Office buildings.

(a) Employees.

1. Except as established in subparagraph 2 of this paragraph, sanitary facilities within office buildings shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For an office building or space containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of not more than 500 feet within the same building.

(b) Customers.

1. Sanitary facilities shall be provided for customers if the office building or space contains 5,000 square feet or more.

2. In an office building, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed within the individual offices, or in a central toilet room area or areas if:

a. The distance from the main entrance of an office space does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Separate sanitary facilities for each gender shall be provided as stated in this section.

1. For males and females there shall be at least:

a. One (1) water closet for one (1) to fifteen (15) persons;

b. Two (2) water closets for sixteen (16) to thirty-five (35) persons;

c. Three (3) water closets for thirty-six (36) to fifty-five (55) persons;

d. Four (4) water closets for fifty-six (56) to eighty (80) persons;

e. Five (5) water closets for eighty-one (81) to 110 persons;

f. Six (6) water closets for 111 to 150 persons;

g. If over 150 persons, six (6) water closets plus one (1) additional water closet for each additional forty (40) persons or fraction thereof;

h. One (1) lavatory for one (1) to fifteen (15) persons;

i. Two (2) lavatories for sixteen (16) to thirty-five (35) persons;

j. Three (3) lavatories for thirty-six (36) to sixty (60) persons;

k. Four (4) lavatories for sixty-one (61) to ninety (90) persons;

l. Five (5) lavatories for ninety-one (91) to 125 persons;

m. If over 125 persons, five (5) lavatories plus one (1) additional lavatory for each additional seventy-five (75) persons or fraction thereof; and

n. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

2. For males, if urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed if the number of water closets is not reduced to less than seventy (70) percent of the minimum specified.

Section 15. Swimming Pool Bathhouses. A swimming pool bathhouse shall comply with the requirements established in 902 KAR 10:120 and this section. (1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, with one (1) part designated for "Males" or "Men" and the other part designated for "Females" or "Women."

(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather load, as defined in 902 KAR 10:120, and shall conform to the following:

(a) For swimming pools in which the total bather capacity is 200 persons or less, there shall be at least:

1. One (1) water closet for each seventy-five (75) males or fraction thereof;

2. One (1) water closet for each fifty (50) females or fraction thereof;

3. One (1) urinal for each seventy-five (75) males or fraction thereof;

4. One (1) lavatory for each 100 persons or fraction thereof;

5. One (1) shower per each fifty (50) persons or fraction thereof; and

6. One (1) drinking fountain per each 200 persons or fraction thereof;

(b) For swimming pools in which the total bather capacity exceeds 200 persons, there shall be at least:

1. Five (5) water closets for 201 to 400 females, with one (1) additional water closet for each additional 250 females or fraction thereof;

2. Three (3) water closets for 201 to 400 males, with one (1) additional water closet for each additional 500 males or fraction thereof;

3. Three (3) urinals for 201 to 400 males, with one (1) additional urinal for each additional 500 males or fraction thereof;

4. One (1) lavatory for up to 150 persons;

5. Two (2) lavatories for 151 to 400 persons;

6. Three (3) lavatories for 401 to 750 persons;

7. If over 750 persons, three (3) lavatories plus one (1) additional lavatory for each additional 750 persons or fraction thereof;

8. One (1) shower per each fifty (50) persons or fraction thereof up to 150;

9. If over 150 persons, three (3) showers plus one (1) additional shower for each additional 500 persons or fraction thereof; and

10. One (1) drinking fountain per each 500 persons or fraction thereof.

(3) Fixture schedules shall be increased for pools at schools or

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similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time schedules of:

(a) One (1) hour or less shall have at least one (1) shower for each six (6) swimmers; and

(b) One (1) to two (2) hours shall have at least one (1) shower for each ten (10) swimmers.

(4) Shower facilities, including warm water and soap, shall be provided for each sex.

(a) Showers shall be supplied with water at a temperature of not less than ninety (90) degrees Fahrenheit and at a flow rate of at least three (3) gallons per minute.

(b) Thermostatic, tempering, or mixing valves shall be installed to prevent scalding of the bathers.

(5) The requirement relating to bathroom toilet room and shower facilities may be waived if the facilities are available to pool patrons within 150 feet from the pool.

Section 16. Park Service Buildings or Bathhouses. A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020, Section 8, and this section. (1) Except for a self-contained recreational vehicle community, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures established in this section.

(2) Except for a self-contained recreational vehicle community, sanitary facilities shall be provided as follows:

(a) If there are one (1) to fifteen (15) vehicle spaces, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

2. Females: At least one (1) water closet, one (1) lavatory, and one (1) shower;

(b) If there are sixteen (16) to thirty (30) vehicle spaces, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, two (2) lavatories, and two (2) showers; and

2. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;

(c) If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be for:

1. Males: At least two (2) water closets, one (1) urinal, three (3) lavatories, and three (3) showers; and

2. Females: At least two (2) water closets, three (3) lavatories, and three (3) showers;

(d) If there are forty-six (46) to sixty (60) vehicle spaces, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, three (3) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, three (3) lavatories, and three (3) showers;

(e) If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, four (4) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, four (4) lavatories, and four (4) showers;

(f) If there are eighty-one (81) to 100 vehicle spaces, there shall be for:

1. Males: At least four (4) water closets, two (2) urinals, five (5) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, five (5) lavatories, and five (5) showers; and

(g) If over 100 vehicle spaces are provided, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;

2. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and

3. One (1) additional urinal for males per additional 100 vehicle spaces or fraction thereof.

Section 17. Residential and Day Camp Sites. A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this section. (1)(a) Each residential camp site shall be provided with sanitary facilities for each sex as established in this section.

(b) A day camp shall:

1. Not be required to provide shower facilities; and

2. Provide all other sanitary facilities for each sex as established in this section.

(2) Sanitary facilities shall be provided as follows:

(a) If there are one (1) to eighteen (18) persons served, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

2. Females: At least two (2) water closets, one (1) lavatory, and one (1) shower;

(b) If there are nineteen (19) to thirty-three (33) persons served, there shall be for:

1. Males: At least two (2) water closets, one (1) urinal, two (2) lavatories, and two (2) showers; and

2. Females: At least two (2) water closets, two lavatories, and two showers;

(c) If there are thirty-four (34) to forty-eight (48) persons served, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, two (2) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, two (2) lavatories, and three (3) showers;

(d) If there are forty-nine (49) to sixty-three (63) persons served, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, three (3) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, three (3) lavatories, and four (4) showers;

(e) If there are sixty-four (64) to seventy-nine (79) persons served, there shall be for:

1. Males: At least three (3) water closets, three (3) urinals, three (3) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, three (3) lavatories, and five (5) showers;

(f) If there are eighty (80) to ninety-five (95) persons served, there shall be for:

1. Males: At least four (4) water closets, three (3) urinals, four (4) lavatories, and six (6) showers; and

2. Females: At least six (6) water closets, four (4) lavatories, and six (6) showers; and

(g) If over ninety-five (95) persons are served, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

2. One (1) additional shower for each twenty (20) persons or fraction thereof served; and

3. One (1) additional urinal per fifty (50) additional males or fraction thereof.

(3) Coed day camps with equal number of males and females shall meet the fixture requirements of Section 6(2) of this administrative regulation, relating to elementary through secondary level school buildings.

(4) Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 18. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. A retail food store or restaurant shall comply with the requirements established in 902 KAR 10:020, **902 KAR** 45:005, and this section. (1) Food stores.

(a) If more than five (5) persons of different sex are employed, separate sanitary facilities shall be provided for the employees.

(b)1. Separate sanitary facilities for each sex shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities shall be:

a. Based on one (1) person per fifty (50) square feet; and

b. Installed in individual stores or in a central toilet room area

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or areas, if the distance from the main entrance of a store does not exceed 500 feet.

(c) There shall be at least:

1. One (1) water closet for one (1) to 100 persons;
2. Two (2) water closets for 101 to 200 persons;
3. Three (3) water closets for 201 to 400 persons;
4. If over 400 persons, three (3) water closets plus one (1) additional water closet for each additional 500 males or 300 females or fraction thereof;
5. One (1) urinal for eleven (11) to 200 males;
6. Two (2) urinals for 201 to 400 males;
7. Three (3) urinals for 401 to 600 males;
8. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;
9. One (1) lavatory for one (1) to 200 persons;
10. Two (2) lavatories for 201 to 400 persons;
11. Three (3) lavatories for 401 to 700 persons;
12. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof;
13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and
14. One (1) service sink, utility sink, or curbed mop basin per floor as required by the Cabinet for Health and Family Services.

(2) Restaurants.

(a) If more than five (5) persons of different sex are employed, separate sanitary facilities for each sex shall be provided for the employees.

(b)1. Except as provided in subparagraph 3 of this paragraph, in a new establishment or an establishment that is extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees.

2. Carryout-type food service operations shall be exempt from providing toilet facilities for the use of their patrons.

3. A restaurant with a business occupancy of one (1) to fifteen (15) persons shall:

- a. Comply with the requirements in paragraphs (c) and (e) of this subsection; or
- b. Provide at least one (1) unisex facility consisting of one (1) water closet and one (1) lavatory.

(c) There shall be at least:

1. Two (2) water closets for one (1) to 100 persons;
2. Three (3) water closets for 101 to 200 persons;
3. Four (4) water closets for 201 to 300 persons; and
4. If over 300 persons, four (4) water closets plus one (1) additional water closet for each additional 200 persons or fraction thereof.

(d) There shall be at least:

1. One (1) urinal for fifty (50) to 200 males; and
2. If over 200 males, one (1) urinal plus one (1) additional urinal for each additional 150 males or fraction thereof.

(e) There shall be at least:

1. One (1) lavatory for one (1) to 200 persons;
2. Two (2) lavatories for 201 to 400 persons;
3. Three (3) lavatories for 401 to 600 persons; and
4. If over 600 persons, three (3) lavatories plus one (1) additional lavatory for each additional 200 persons or fraction thereof.

(f) There shall be at least:

1. One (1) drinking fountain for one (1) to 100 persons; and
2. If over 100 persons, two (2) drinking fountains plus one (1) additional water fountain for each additional 400 persons or fraction thereof.

(g) If food is consumed indoors on the premises, water stations may be substituted for drinking fountains.

(h) There shall be one (1) service sink, utility sink, or curbed mop basin on each floor as required by the Cabinet for Health and Family Services.

(i) Lavatories for hand washing shall be provided in the kitchen area, readily accessible to the employees.

(3) Licensed food establishments. In all food establishments licensed by the Cabinet for Health and Family Services,

Department for Public Health, the requirements in this subsection shall be met.

(a) Hand-washing sinks.

1. All hand-washing sinks shall have a minimum hot water temperature of 100 degrees Fahrenheit and a maximum of 120 degrees Fahrenheit.

2. Self-closing faucets shall provide a flow of water for no less than fifteen (15) seconds from activation.

3. Placement of hand-washing sinks shall be approved by the Cabinet for Health and Family Services, Department for Public Health pursuant to 902 KAR 45:005.

(b) A three (3) compartment sink used for washing utensils shall be required and shall drain by a direct connection with a minimum of a two (2) inch drain.

(c) Dishwashing or ware washing machines shall discharge indirectly through a three (3) inch open receptacle.

(d) Residential type dishwashing machines shall discharge:

1. Through an air gap device; or
2. Indirectly through a three (3) inch open receptacle.

(e) Sinks solely used for food preparation shall discharge by an indirect connection to a minimum three (3) inch trap.

(f) All hub drains, open receptacles, floor sinks, or other waste receptacles shall extend one (1) inch above the floor plane unless a full grate/strainer is installed flush with the floor.

(g) Occupied mobile food units not located within an existing permitted food establishment shall:

1. Meet the requirements of the Kentucky Plumbing Code, KRS Chapter 318 and 815 KAR Chapter 20;
2. Have a waste tank no less than fifty (50) percent larger than the freshwater tank;
3. Have a National Sanitary Foundation (NSF) approved freshwater tank for potable water; and
4. Have a minimum of a three (3) compartment sink and one (1) hand sink.

STEVEN A. MILBY, Chairman

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 8, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

CONTACT PERSON: Samuel I. Thorner, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction Division of Plumbing (As Amended at ARRS, May 10, 2016)

815 KAR 20:195. Medical gas piping installations.

RELATES TO: KRS 198B.050, 318.010, 318.134

STATUTORY AUTHORITY: KRS 198B.050(2), (5), 318.130, 318.134(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.134(3) requires the department to establish a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. KRS 318.130 authorizes the department to promulgate a reasonable rule or administrative regulation to administer the provisions of KRS Chapter 318. This administrative regulation establishes the requirements for medical gas piping installation.

Section 1. Definitions. (1) "Health care facility" means a hospital, nursing home, limited care facility, clinic, ambulatory care center, or office practice medical or dental office as defined in NFPA 99C.

(2) "Medical gas piping" means a permanent fixed piping system in a health care facility that is used to convey oxygen, nitrous oxide, nitrogen, carbon dioxide, helium, medical air, and mixtures of these gases from its source to the point of use. Medical gas piping includes the fixed piping associated with a medical,

surgical, or gas scavenging vacuum system, as well as a bedside suction system.

(3) "NFPA" means the National Fire Protection Association.

Section 2. Standards and Procedures. (1) Installation standards. **Except as established in paragraphs (a) and (b) of this subsection,**~~Except that Section 5.1.10.6.6, Branch Takeoffs, shall not be adopted nor enforced within the Commonwealth,~~ a new medical gas piping installation or an addition to an existing medical gas piping system shall comply with the applicable provisions of NFPA 99C, Standard on Gas and Vacuum Systems, 2002 Edition, **with the following exceptions:**

~~(a) Section 5.1.10.6.6, Branch Takeoffs, shall not be adopted nor enforced within the commonwealth. **and**~~

~~(b) Axially swaged, elastic strain preload fittings providing metal to metal seal having a temperature rating not less than 538 degrees Celsius (1,000 degrees Fahrenheit) and a pressure rating not less than 2,070 kPa (300 psi), and that, **at completion**~~**when complete**~~, are permanent and nonseparable, shall be permitted to be used to join copper or stainless steel tube. The axially swaged, elastic strain preload fittings shall not be installed within six (6) inches of a brazed joint, and a brazed joint shall not be installed within six (6) inches of an existing axially swaged, elastic strain preload fitting.~~

(2) Permit required. A licensed master plumber shall make application for a permit to install medical gas piping prior to the installation. To obtain the permit, the master plumber shall:

(a) Pay a fee of forty-five (45) dollars base permit for the medical gas system for each building;

(b) Pay a fee of fifteen (15) dollars per opening; and

(c) Identify the person who shall perform the installation. The person making the installation shall be a certified medical gas installer as required by NFPA 99C as well as a licensed master or journeyman plumber.

(3) Supervision by the master. It shall be the responsibility of the licensed master plumber to ensure that the person doing the installation:

(a) Is properly certified as required by NFPA 99C;

(b) Uses the proper products and stores them correctly; and

(c) Requests and receives all inspections at the initial pressure test for the complete system from a certified state plumbing inspector.

(4) Final approval. Upon completion of the installation, the master plumber shall furnish the Division of Plumbing with certification from the medical gas system verifier as required by NFPA 99C.

Section 3. Incorporation by Reference. (1) "NFPA 99C Standard on Gas and Vacuum Systems", 2002 Edition, National Fire Protection Association, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) A copy may also be obtained by contacting the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

STEVEN A. MILBY, Chairman

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 8, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

CONTACT PERSON: Samuel I. Thorner, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

GENERAL GOVERNMENT CABINET
Office of Occupations and Professions
Kentucky Board of Ophthalmic Dispensers
(Amended After Comments)

201 KAR 13:040. Licensing; application, examination; experience; renewal; and inactive status.

RELATES TO: KRS 326.020, 326.035, 326.040, 326.080
STATUTORY AUTHORITY: KRS 326.020(3), 326.035, 326.040, 326.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3) authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS Chapter 326. KRS 326.040 establishes the requirements for the issuance of a license including experience and passage of an examination. KRS 326.080 requires the annual renewal of licensure. This administrative regulation prescribes the forms, required examinations, experience, renewal requirements, and provisions for inactive status required for licensees.

Section 1. Application for License. (1) A person wishing to obtain a license to practice as an ophthalmic dispenser, pursuant to KRS Chapter 326, shall make application to the Kentucky Board of Ophthalmic Dispensers on the form, Application for Ophthalmic Dispenser License.

(2) An applicant for licensure as an apprentice shall complete the form, Application for Apprentice License.

(3) The board shall admit to the practical examination a candidate who pays the required examination fee of seventy-five (75)[fifty (50)] dollars and who meets the requirements of KRS 326.040, under oath, that he qualifies pursuant to KRS 326.040 and 201 KAR Chapter 13.

Section 2. Required Examinations. (1) The examination required pursuant to KRS 326.040(4) shall consist of passage of each of the following:

(a) The American Board of Opticians (ABO) Basic Examination;

(b) The National Contact Lens Examiners (NCLE) Basic Examination; and

(c) The National Commission of State Opticianry Regulatory Boards (NCSORB)[NCSORB] National Practical Examination.

(2) (a) For an applicant who holds an apprentice ophthalmic dispenser license issued by the board, the ABO and the NCLE shall be:

1. [(a)] Taken before the expiration of thirty (30) months from the date of the original receipt of the apprentice license; and

2. [(b)] Passed within thirty-six (36) months[five (5) years] of the date of the original receipt of the apprentice license.

(b) An apprentice ophthalmic dispenser licensed by the board shall not take the NCSORB National Practical Examination until all other licensure requirements have been completed.

(3) For an applicant who is applying for licensure based on credentials and experience, the candidate shall have the following:

(a) An active license as a dispensing optician issued by any state or territory of the United States or the District of Columbia that has standards at least as stringent as those required by KRS 326.040; or

(b) An active certification as a dispensing optician under the ABO and the NCLE, and at least two (2) years of experience as a dispensing optician, as verified under oath by both the applicant and by a sponsor with personal knowledge of the applicant's work history.

1. The verifying sponsor shall be licensed either as an ophthalmologist, an optometrist, or an optician.

2. An applicant for licensure based on credentials and experience under this paragraph shall have passed the NCSORB National Optician's Practical Examination before application.[The practical examination shall not be taken until all other licensure

requirements have been completed].

Section 3. Experience. In addition to the experience requirement established in KRS 326.035[326.040(3)], the board shall also count as qualifying experience for an applicant for licensure as an ophthalmic dispenser apprentice any time spent:

(1) Attending a recognized school for ophthalmic dispensing; or

(2) Working in an optical laboratory as an ophthalmic technician.

Section 4. Licensure Renewal. (1) Each license shall be renewed each year on or before December 31.

(2) Each licensee shall complete and submit one (1) of the following:

(a) Application for Renewal for a licensed ophthalmic dispenser; or

(b) Application for Apprentice Renewal for a licensed apprentice ophthalmic dispenser.

(3) For a renewal postmarked on or before December 31, the renewal fee shall be:

(a) Seventy-five (75)[Fifty (50)] dollars for a licensed ophthalmic dispenser; or

(b) Fifty (50)[Twenty-five (25)] dollars for an apprentice ophthalmic dispenser.

(4) In addition to the renewal fee, a thirty-five (35) dollar administrative late fee[ten (10) dollar penalty] shall be paid on a renewal postmarked after December 31. A license that has not been renewed by close of business on March 1[At the end of a thirty (30) day grace period, January 31, a license that has not been renewed] shall expire[be revoked]. Applicants may request an extension of time to renew of up to sixty (60) days for reasons related to medical issues, military service, or family emergencies. The applicant shall submit the request for an extension of time in writing, and send the request to the board by certified mail on or before the March 1 expiration date.

(5) In order to qualify for reinstatement of a license that has expired by operation of subsection (4) of this section, either an Application for Reinstatement or an Application for Apprentice Reinstatement shall be submitted to the board. In addition, a reinstatement fee shall be submitted with the application. The reinstatement requirements shall be:

(a) \$300 reinstatement fee and twelve (12) additional hours of continuing education to be completed before the end of the current licensure year for reinstatement as an active status or inactive status ophthalmic dispenser; or

(b) Sixty (60) dollars for reinstatement as an apprentice ophthalmic dispenser.

(6) In order to qualify for licensure renewal, a licensee shall comply with the continuing education requirements of KRS 326.020(3)(b) and 201 KAR 13:055.

(7) All revoked and expired licenses shall be reinstated by the licensee to resume the practice of ophthalmic dispensing.

Section 5. Temporary Permit Application. (1) The board shall, if requested by the applicant, issue a temporary permit to a qualified ophthalmic dispenser, who otherwise would qualify for a license but is in the state on a temporary basis or who has not yet had an opportunity to take an examination to procure a license and whose immediate employment depends upon being licensed by the board.

(2) The permit shall be valid only until the next regular examination date and in no case shall exceed six (6) months following date of issuance.

(3) The fee for a temporary permit shall be fifty (50) dollars, which amount shall accompany the application.

Section 6. Board Action, Notification. (1) The board shall act only upon those applications that are complete.

(2) Each applicant shall enclose the prescribed license fee in the form of a check or money order made payable to the Commonwealth of Kentucky State Treasurer.

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(3) Each applicant shall be notified of the action of the board; and, if favorable, when and where the examination will be held.

Section 7. Inactive Status. (1) Upon application, the board shall grant inactive status to a qualified licensee. While on inactive status, the licensee shall not engage in the practice of ophthalmic dispensing.

(2) The fee for licensure on inactive status shall be thirty-five (35)~~ten (10)~~ dollars per year.

(3)(a) Continuing education requirements shall be waived for a licensee on inactive status during the inactive period.

(b) If the inactive licensee applies to the board to return to active status, the licensee shall submit proof that he has completed six (6) hours of continuing education for ophthalmic dispenser licensees and four (4) hours of continuing education for apprentice ophthalmic dispenser licensees within the last twelve (12) month period immediately preceding the date on which the application is submitted.

(c) The licensee may request that he be allowed to return to active status immediately, with the provision that he shall receive the appropriate number of continuing education hours within six (6) months of the date on which he returns to active status.

(d) Additionally, the licensee shall be responsible for meeting the requirements established in 201 KAR 13:055 in order to qualify for renewal.

(4) To change from inactive status to active status, the ophthalmic dispenser licensee shall:

(a) Pay a~~[The]~~ reactivation fee ~~off~~for changing from inactive status to active status shall be forty (40) dollars; and

(b) Complete six (6) additional hours of continuing education before the end of the current licensure year~~[for an ophthalmic dispenser licensee].~~

Section 8 Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Ophthalmic Dispenser License", February 2016~~[June 2012]~~;

(b) "Application for Apprentice License", February 2016~~[June 2012]~~;

(c) "Application for Renewal", February 2016~~[June 2012]~~; ~~and~~

(d) "Application for Apprentice Renewal", February 2016;

(e) "Application for Reinstatement", February 2016; and

(f) "Application for Apprentice Reinstatement", February 2016~~[June 2012]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GRANVILLE SMITH, Board Chair

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601. phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the requirements to obtain a license as an ophthalmic dispenser. Establishes the examination, continuing education and fee requirements for: licensure; renewal of license; and reinstatement of a license.

(a) What this administrative regulation does: This administrative regulation establishes the procedures for the licensure of persons who wish to practice in the state as an ophthalmic dispenser. The regulation also establishes the criteria for renewal and reinstatement of a license. The regulation establishes the examination, continuing education, and fee requirements for: licensure; renewal of license; and reinstatement of a license.

(b) The necessity of this administrative regulation: This

administrative regulation is necessary to set the minimum certification and licensure requirements and the application process for licensure. This administrative regulation establishes the fee amounts for licensure, renewal, and reinstatement of the different license classifications.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 326.020(3)(a) requires the board to promulgate regulations that carry out the provisions of KRS Chapter 326. KRS 326.035 establishes the maximum amount for the Apprentice Ophthalmic Dispenser licensure and renewal fees. KRS 326.040 establishes the maximum amount for Ophthalmic Dispenser licensure fee. KRS 326.080 establishes the maximum amount for Ophthalmic Dispenser renewal fees. This administrative regulation establishes the minimum qualifications and requirements for licensure. This regulation also establishes the procedure for renewal and reinstatement of licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the examinations required, continuing education requirements, and the application process for obtaining a license from the board. The fee increases with this amendment will allow the Kentucky Board of Licensure for Ophthalmic Dispensers to continue operating and providing services at the level expected by licensees and applicants.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will establish a procedure for renewing a license that has been revoked for untimely renewal. This amendment increases the fees required for application and renewal in the following amounts: Practical Examination fee - \$50.00 to \$75.00; Inactive Status fee - \$10.00 to \$35.00; Late Renewal fee - \$10.00 to \$35.00; Ophthalmic Dispenser Renewal fee - \$50.00 to \$75.00; Ophthalmic Dispenser Apprentice Renewal fee - \$25.00 to \$50.00. This amendment creates reinstatement fees for licensees that allow their license to expire in the following amounts: Ophthalmic Dispenser Reinstatement fee - \$300; Ophthalmic Dispenser Apprentice Reinstatement fee - \$60.00. The amendment will set a specific timeline for completing an Ophthalmic Dispenser apprenticeship.

(b) The necessity of the amendment to this administrative regulation: The amendment will notify applicants of the application process for renewing and reinstating a license. The fee increases are necessary to allow the Kentucky Board of Ophthalmic Dispensers to continue operating and providing services at the level expected by licensees and applicants. The amendment is necessary to set an expected schedule for completing an Ophthalmic Dispenser apprenticeship.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 326.020(3)(a) requires the board to promulgate administrative regulations that carry out the provisions of the chapter relating to licensure of ophthalmic dispensers. KRS 326.080 requires licensed ophthalmic dispensers and apprentices to renew licenses and show proof of continuing education and payment of a renewal fee not to exceed seventy five dollars for each licensure year. KRS 326.040 requires Ophthalmic Dispenser licensees to pay a licensure fee in a maximum amount of fifty dollars. KRS 326.035 requires Ophthalmic Dispenser Apprentice licensees to pay a licensure fee in a maximum amount of fifty dollars.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will inform licensees to the renewal and reinstatement process and the continuing education requirements. This amendment will inform apprentices of the expected timeline for completing an apprenticeship program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

(4) Provide an analysis of how the entities identified in question

(3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to show proof of compliance with continuing education requirements to obtain license renewal or reinstatement. This amendment increases the fees required for application and renewal in the following amounts: Practical Examination fee - \$50.00 to \$75.00; Inactive Status fee - \$10.00 to \$35.00; Late Renewal fee - \$10.00 to \$35.00; Ophthalmic Dispenser Renewal fee - \$50.00 to \$75.00; Ophthalmic Dispenser Apprentice Renewal fee - \$25.00 to \$50.00. This amendment creates reinstatement fees for licensees that allow their license to expire in the following amounts: Ophthalmic Dispenser Reinstatement fee - \$300; Ophthalmic Dispenser Apprentice Reinstatement fee - \$60.00.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment increases the fees required for application and renewal in the following amounts: Practical Examination fee - \$50.00 to \$75.00; Inactive Status fee - \$10.00 to \$35.00; Late Renewal fee - \$10.00 to \$35.00; Ophthalmic Dispenser Renewal fee - \$50.00 to \$75.00; Ophthalmic Dispenser Apprentice Renewal fee - \$25.00 to \$50.00. Licensees that allow their license to expire without renewal will have to pay a reinstatement fee in the following amounts: Ophthalmic Dispenser Reinstatement fee - \$300; Ophthalmic Dispenser Apprentice Reinstatement fee - \$60.00. Applicants and licensees will have to pay the increased fee pertinent to their license level.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will know the continuing education requirements for license renewal and reinstatement. The increase in fees will allow the board to continue operating and providing services at the level expected by licensees and applicants.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The budget for the Board is \$55,200 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is \$55,200 annual. It will not cost the administrative body any additional funds to implement this administrative regulation. The fee increases in the amendment will increase the budget and allow the Board to operate without a deficit.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment increases the fees required of application and renewal in the following amounts: Practical Examination fee - \$50.00 to \$75.00; Inactive Status fee - \$10.00 to \$35.00; Late Renewal fee - \$10.00 to \$35.00; Ophthalmic Dispenser Renewal fee - \$50.00 to \$75.00; Ophthalmic Dispenser Apprentice Renewal fee - \$25.00 to \$50.00. This amendment creates fees for licensees that allow their license to expire in the following amounts: Ophthalmic Dispenser Reinstatement fee - \$300; Ophthalmic Dispenser Apprentice Reinstatement fee - \$60.00. There will be no cost to the Commonwealth to implement these increases in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes the fees permitted by statute. KRS 326.035 establishes the maximum amount for the Apprentice Ophthalmic Dispenser licensure and renewal fees. KRS 326.040 establishes the maximum amount for Ophthalmic Dispenser licensure fee. KRS 326.080 establishes the maximum amount for Ophthalmic Dispenser renewal fees. This amendment will create reinstatement fees for licensees that allow their license to expire without renewal.

(9) Tiering: Is tiering applied? No. Tiering is not needed because the requirements established in this regulation will apply equally to all licensees and applicants. Licensees and applicants will be expected to pay the fees pertinent to their license level.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Kentucky Board of Ophthalmic Dispensers is an administrative body created by KRS 326.020. No other units, parts, or divisions of state or local government will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020; 326.035; 326.040; and 326.080.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of licensees and applicants for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants and licensees for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amended After Comments)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) "Department of Corrections Policies and Procedures," May 13[February 26], 2016[June 9, 2015], are incorporated by reference. Department of Corrections Policies and Procedures include:

- 1.2 News Media (Amended 6/10/14)
- 1.4 The Monitoring and Operation of Private Prisons (Amended 5/15/08)
- 2.1 Inmate Canteen (Amended 2/26/16[10/12/12])
- 2.12 Abandoned Inmate Funds (Amended 2/26/16[3/14/14])
- 3.1 Code of Ethics (Amended 12/10/13)

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| <p>3.5 Sexual Harassment and Anti-Harassment (Amended 12/10/13)</p> <p>3.9 Student Intern Placement Program (Added 9/13/2010)</p> <p>3.10 Appearance and Dress for Nonuniformed Staff (Amended 9/13/10)</p> <p>3.11 Drug Free Workplace Employee Drug Testing (Amended 12/10/13)</p> <p>3.14 Employee Time and Attendance Requirements (Amended 2/26/16[6/9/15])</p> <p>3.17 Uniformed Employee Dress Code (Amended 2/26/16[8/20/13])</p> <p>3.22 Staff Sexual Offenses (Amended 12/10/13)</p> <p>3.23 Internal Affairs Investigation (Added 8/25/09)</p> <p>5.1 Research and Survey Projects (Amended 12/10/13)</p> <p>5.3 Program Evaluation and Measurement (Amended 6/9/15)</p> <p>6.1 Open Records Law (Amended 5/14/07)</p> <p>8.2 Fire Safety (Amended 3/14/14)</p> <p>8.7 Notification of Extraordinary Occurrence (Amended 3/14/14)</p> <p>9.4 Transportation of Inmates to Funerals or Bedside Visits (Amended 6/9/15)</p> <p>9.6 Contraband (Amended 2/26/16[3/14/14])</p> <p>9.8 Search Policy (Amended 5/13/14)</p> <p>9.13 Transport to Court - Civil Action (Amended 07/09/07)</p> <p>9.18 Informants (Amended 9/13/10)</p> <p>9.19 Found Lost or Abandoned Property (Amended 10/14/05)</p> <p>9.22 Control and Use of Caustic/Toxic Materials (Added 3/14/14)]</p> <p>10.2 Special Management Inmates (Amended 2/26/16[6/9/15])</p> <p>10.3 Safekeepers and Contract Prisoners (Amended 9/15/04)</p> <p>11.2 Dietary Procedures and Compliance (Amended 3/14/14)</p> <p>11.4 Alternative Dietary Patterns (Amended 3/14/14)</p> <p>13.1 Pharmacy Policy and Formulary (Amended 1/15/15)</p> <p>13.2 Health Maintenance Services (Amended 2/26/16[1/15/15])</p> <p>13.3 Medical Alert System (Amended 3/14/14)</p> <p>13.5 Advance Healthcare Directives (<u>Amended 2/26/16[Added 4/12/05]</u>)</p> <p>13.6 Sex Offender Treatment Program (Amended 5/15/08)</p> <p>13.7 Involuntary Psychotropic Medication (Amended 10/14/05)</p> <p>13.8 Substance Abuse Program (Amended 10/12/12)</p> <p>13.9 Dental Services (Amended 10/14/05)</p> <p>13.10 Serious Infectious Disease (Amended 3/14/14)</p> <p>13.11 Do Not Resuscitate Order (Amended 8/9/05)</p> <p>13.12 Suicide Prevention and Intervention Program (Added 8/25/09)</p> <p>13.13 Mental Health Services (Amended 6/9/15)</p> <p>14.1 Investigation of Missing Inmate Property (Amended 10/14/05)</p> <p>14.2 Personal Hygiene Items (Amended 8/20/13)</p> <p>14.3 Marriage of Inmates (Amended 2/26/16[10/14/05])</p> <p>14.4 Legal Services Program (Amended 3/14/14)</p> <p>14.5 Board of Claims (Amended 10/14/05)</p> <p>14.6 Inmate Grievance Procedure (Amended 2/26/16[6/9/15])</p> <p>14.7 Sexual Abuse Prevention and Intervention Programs (Amended 2/26/16[12/10/13])</p> <p>15.1 Hair, Grooming and ID Card Standards (Amended 1/15/15)</p> <p>15.2 Rule Violations and Penalties (Amended 2/26/16[3/14/14])</p> <p>15.3 Meritorious Good Time (Amended 12/13/05)</p> <p>15.4 Program Credit (Amended 6/12/12)</p> <p>15.5 Restoration of Forfeited Good Time (Amended 2/26/16[5/14/07])</p> <p>15.6 Adjustment Procedures and Programs (Amended 3/14/14)</p> <p>15.7 Inmate Accounts (Amended 1/15/15)</p> <p>15.8 Unauthorized Substance Abuse Testing (Amended 10/14/05)</p> <p>16.1 Inmate Visits (Amended 10/12/12)</p> | <p>16.2 Inmate Correspondence (Amended 1/15/15)</p> <p>16.3 Inmate Access to Telephones (Amended 10/12/12)</p> <p>16.4 Inmate Packages (Amended 1/15/15)</p> <p>17.1 Inmate Personal Property (Amended 2/26/16[6/9/15])</p> <p>17.2 Assessment Center Operations (Amended 6/9/15)</p> <p>17.3 Controlled Intake of Inmates (Amended 3/14/14)</p> <p>17.4 Administrative Remedies: Sentence Calculations (Amended 4/10/06)</p> <p>18.1 Classification of the Inmate (Amended 1/15/15)</p> <p>18.2 Central Office Classification Committee (Amended 8/20/13)</p> <p>18.3 Confinement of Youthful Offenders (Added 6/9/15)</p> <p>18.5 Custody and Security Guidelines (Amended 2/26/16[3/14/14])</p> <p>18.7 Transfers (Amended 5/13/16[2/26/16][07/09/07])</p> <p>18.9 Out-of-state Transfers (Amended 2/26/16[2/15/06])</p> <p>18.11 Placement for Mental Health Treatment in CPTU or PCU, KCIW-PCU, or KCPC (Amended 2/26/16[1/9/07])</p> <p>18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)</p> <p>18.13 Population Categories (Amended 2/26/16[07/09/07])</p> <p>18.15 Protective Custody (Amended 2/26/16[1/15/15])</p> <p>18.16 Information to the Parole Board (Effective 3/14/14)</p> <p>18.17 Interstate Agreement on Detainers (Amended 07/09/07)</p> <p>18.18 International Transfer of Inmates (Amended 5/14/07)</p> <p>19.1 Governmental Services Program (Amended 10/12/12)</p> <p>19.2 Sentence Credit for Work (<u>Amended 2/26/16[Added 2/13/04]</u>)</p> <p>19.3 Inmate Wage/Time Credit Program (Amended 1/15/15)</p> <p>20.1 Educational Programs and Educational Good Time (Amended 8/25/09)</p> <p>21.1 Library Services (Added 3/14/14)</p> <p>22.1 Privilege Trips (Amended 10/14/05)</p> <p>22.2 Recreation and Inmate Activities (Added 3/14/14)</p> <p>23.1 Religious Programs (Amended 8/20/13)</p> <p>25.2 Public Official Notification of Release of an Inmate (Amended 10/14/05)</p> <p>25.3 Prerelease Program (Effective 11/15/06)</p> <p>25.4 Institutional Inmate Furloughs (Amended 07/09/07)</p> <p>25.6 Community Center Program (Amended 07/09/07)</p> <p>25.10 Administrative Release of Inmates (Amended 11/9/10)</p> <p>25.11 Victim Services Notification (Amended 8/25/09)</p> <p>26.1 Citizen Involvement and Volunteer Service Program (Amended 10/12/12)</p> |
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- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.
- RODNEY BALLARD, Commissioner
 APPROVED BY AGENCY: May 12, 2016
 FILED WITH LRC: May 13, 2016 at 9 a.m.
 CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.
- REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**
- Contact Person: Amy Barker
- (1) Provide a brief summary of:
- (a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Kentucky Department of Corrections including the rights and responsibilities of employees and the inmate population.
- (b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020 and to meet American Correctional Association (ACA) standards requirements.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Department of Corrections.
- (d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: The regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions. It provides direction and information to Corrections employees and inmates concerning the operations of the department.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment maintains the Kentucky Department of Corrections compliance with ACA standards and updates practices for the department and its institutions.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit the Secretary of the Cabinet or his delegate and the Commissioner to implement or amend practices or procedures to ensure the safe and efficient operation of the Kentucky Department of Corrections.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning the effective and orderly management of the state correctional institutions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Department of Corrections, 3,252 employees, 22,425 inmates, visitors, volunteers, and others who enter state correctional institutions.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to follow the changes made in the policies and procedures. The institutional employees and inmates of the Department of Corrections will have to change their actions to comply with any operational changes made by this regulation. Others who enter correctional institutions will have to comply with policies and procedures concerning entry, search, contraband and others when they enter an institution.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the amendment to this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the state correctional institutions.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No increase in funding is anticipated.

(b) On a continuing basis: No increase in funding is anticipated.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Corrections budgeted funds for the biennium.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding is anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The regulation establishes fees for inmates, e.g. health services co-pays. The amendments to the regulation do not establish additional fees or change any existing fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendments to this regulation impact the operation of the Kentucky Department of Corrections and each state correctional institution.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035 and 197.020

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendments to this regulation do not create any additional revenue for the Kentucky Department of Corrections or other government entity.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendments to this regulation do not create any additional revenue for the Kentucky Department of Corrections or other government entity.

(c) How much will it cost to administer this program for the first year? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operate. The costs for the amendments are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operate. The costs for the amendments are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

PROPOSED AMENDMENTS

**FINANCE CABINET
Executive Branch Ethics Commission
(Amendment)**

9 KAR 1:040. Registration and expenditure statements; financial transactions and termination forms; ~~handbook;~~ and enforcement.

RELATES TO: KRS 11A.211, 11A.216, 11A.221, 11A.231, 11A.233(1), 11A.241(4), (5), (6), 11A.990

STATUTORY AUTHORITY: KRS 11A.110(3), (4), 11A.241(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.241(4) requires the Executive Branch Ethics Commission to prescribe the initial registration statement, the updated registration statement, and the termination notice required by KRS 11A.211, the statement of expenditures required by KRS 11A.216, and the statement of financial transactions required by KRS 11A.221. ~~[KRS 11A.241(6) requires the commission to publish a handbook that explains the provisions of KRS 11A.201 to 11A.246. KRS 11A.990 states that a lobbyist who fails to file a registration statement shall be subject to a civil penalty.]~~ This administrative regulation establishes the registration, financial transactions, and expenditure statements, termination notice, ~~handbook,~~ and enforcement procedure.

Section 1. Definitions. (1) "Commission" means the Executive Branch Ethics Commission.

(2) "Employer" is defined by KRS 11A.201(3).

(3) "Executive agency decision" is defined by KRS 11A.201(7).

(4) "Executive agency lobbyist" is defined by KRS 11A.201(8).

(5) "Real party in interest" is defined by KRS 11A.201(15).

Section 2. Initial Registration Statement. (1) The initial registration statement required by KRS 11A.211 shall be filed on the ~~[]~~ Initial Registration Statement ~~[]~~ form.

(2)(a) The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist:

1. Has been engaged; or
2. Is responsible.

(b) Subject matters shall include:

1. An award of grant for social services;
2. A lease for office space or equipment;
3. A contract to provide food, clothing, or other consumable products; and
4. Any other subject matter.

(3)(a) The signature on the ~~[]~~ Initial Registration Statement ~~[]~~ which is filed with the commission shall be submitted either in blue or black ink, electronically by facsimile or electronic mail to the commission, or through an online system established by the commission ~~[an original signature in ink other than black].~~

(b) The forms incorporated by reference in this administrative regulation may be reproduced by an executive agency lobbyist or his employer.

Section 3. 2. (1) The ~~[]~~ Updated Registration Statement ~~[]~~ form required by KRS 11A.211(2) shall be filed on the applicable ~~[]~~ Updated Registration Statement ~~[]~~ forms.

(2) The notice of termination required by KRS 11A.211(4) shall be filed on the ~~[]~~ Termination Notification As Executive Agency Lobbyist ~~[]~~ form.

Section 4. 3. Enforcement Procedure. (1) If an executive agency lobbyist, an employer of an executive agency lobbyist, or a real party in interest has not filed an ~~[]~~ Updated Registration Statement ~~[]~~ on or before the date the statement is due, the commission shall notify the party, by certified mail, return receipt requested, that if the statement is not filed within fifteen (15) days of the date of the receipt of notice the commission shall levy a fine, as provided by KRS 11A.990(5).

(2) If, by the 16th day after proof of service of the certified letter

is received by the commission, the commission has not received the statement that was due by July 31, the commission shall prepare and issue to the executive agency lobbyist, employer, or real party in interest an order demanding payment of the appropriate fine as required by KRS 11A.990(5). The executive agency lobbyist, employer, or real party in interest shall pay the fine no later than ten (10) days from the date of the order. The commission may exonerate or reduce the fine if the commission receives evidence during the ten (10) day fine payment period indicating the filer has already filed the updated registration statement, or that the delinquency is in error.

(3) The commission also may exonerate or reduce a fine for late filing of the updated registration statement if the commission feels that exoneration, based on the circumstances, is warranted.

(4) If the commission is not in receipt of the fine from the executive agency lobbyist, employer, or real party in interest by the tenth day after issuance of the order demanding payment of the fine, the general counsel may recommend that the commission initiate an investigation of the executive agency lobbyist, employer, or real party in interest to determine if the failure to file was intentional causing the criminal penalties set forth in KRS 11A.990(6) to apply.

Section 5. 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Initial Registration Statement", ~~[]~~ rev. 04/2016 ~~[02/07]~~;

(b) "Updated Registration Statement - Executive Agency Lobbyist", ~~[]~~ rev. 04/2016 ~~[02/07]~~;

(c) "Updated Registration Statement - Employer of Executive Agency Lobbyist", ~~[]~~ rev. 04/2016 ~~[02/07]~~;

(d) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined", ~~[]~~ rev. 04/2016 ~~[02/07]~~;

(e) "Updated Registration Statement - Real Party in Interest", ~~[]~~ rev. 04/2016 ~~[02/07]~~;

(f) "Termination Notification as Executive Agency Lobbyist", ~~[]~~ rev. 04/2016 ~~[02/07]~~;

(g) ~~[]~~ Executive Agency Lobbying Handbook (Rev. 02/07); and

(h) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist", ~~[]~~ 9/93 ~~[]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, #3 Fountain Place ~~The Vest Lindsey House, 401 Wapping Street~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM DAVID DENTON, Chair

APPROVED BY AGENCY: April 19, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2016, at 10:00 a.m., at Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kathryn H. Gabhart, Executive Director, Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-7954, fax (502) 564-2686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kathryn H. Gabhart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance to Executive Agency

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Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest as to how to file an initial registration and updated registrations with the Executive Branch Ethics Commission as required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4).

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 11A.241(4), (5), and (6).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides guidance and forms required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently provides guidance and the forms required for Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest to file an initial registration and updated registrations with the Executive Branch Ethics Commission as required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the administrative regulation by revising the forms required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4) as required by HB 80 of the 2016 General Assembly Session, as well as necessary changes for ease of use and aesthetic functioning of the forms.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is required by HB 80 of the 2016 General Assembly Session increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to the administrative regulation conforms to HB 80 of the 2016 General Assembly Session amending KRS 11A.211 increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the administration of KRS 11A.211 as amended by HB 80 of the 2016 General Assembly Session increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018, to ensure that Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest are aware of the increase in the fee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest, and officials of Executive Branch Agencies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: All Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest, and officials of Executive Branch Agencies will be aware of the amendment of KRS 11A.211 by HB 80 of the 2016 General Assembly Session increasing the Executive Lobbyist Registration fee from \$125 to \$500 from July 1, 2016, through June 30, 2018.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to pay the increased fee and file the required forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no known cost associated with this amended administrative regulation. The increase in the Executive Lobbyist Registration fee is required by HB 80 as amending KRS 11A.211 during the biennium.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All Executive Agency Lobbyists,

Employers of Executive Agency Lobbyists, Real Parties in Interest, and officials of Executive Branch Agencies will have guidance and notice as to the requirements of KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4) and the increase in the Executive Lobbyist Registration fee is required by HB 80 as amending KRS 11A.211 during the biennium.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Minimal costs to the Executive Branch Ethics Commission associated with the publication of training materials and conducting education already provided by the Commission's budget.

(b) On a continuing basis: Minimal costs to the Executive Branch Ethics Commission associated with the ongoing publication of training materials and conducting education already provided by the Commission's budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission's existing budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation will not require an increase in any fees or funding. The increase in the Executive Lobbyist Registration fee is required by HB 80 as amending KRS 11A.211 during the biennium.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation applies equally to all affected individuals.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Executive Branch of state government.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. HB 80 of the 2016 General Assembly session and KRS 11A.241(4), (5), and (6).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to the administrative regulation will not generate any revenue, but only conforms with the increase in the Executive Lobbyist Registration fee that is required by HB 80 as amending KRS 11A.211 during the biennium.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to the administrative regulation will not generate any revenue, but only conforms with the increase in the Executive Lobbyist Registration fee that is required by HB 80 as amending KRS 11A.211 during the biennium.

(c) How much will it cost to administer this program for the first year? \$500 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

(d) How much will it cost to administer this program for subsequent years? \$300 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None
Expenditures (+/-): None
Other Explanation:

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PUBLIC PROTECTION CABINET
Office of Occupations and Professions
(Amendment)

200 KAR 30:010. Definitions for 200 KAR Chapter 30.

RELATES TO: KRS ~~164.6903~~ – ~~164.6935~~
STATUTORY AUTHORITY: KRS ~~164.6905(3)~~
NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~164.6905(3)~~ authorizes the ~~office~~ to promulgate administrative regulations necessary to carry out the provisions of KRS ~~164.6903~~ to ~~164.6935~~. This administrative regulation establishes the definitions for 200 KAR Chapter 30.

Section 1. Definitions. (1) "Agent contract" is defined by KRS ~~164.6903(1)~~.

(2) "Appropriate college, university, or athletic regulatory body" means the college, university, or athletic regulatory body which provides or regulates an athletic program in which a student athlete participates or did participate, at the time the misconduct set forth in a complaint occurred.

(3) "Athlete agent" is defined by KRS ~~164.6903(2)~~.

(4) "Charge" means an allegation issued by the college, university, or athletic regulatory body stating a violation of a specified provision of KRS ~~164.6901~~ to ~~164.6935~~, or 200 KAR Chapter 30, has occurred.

(5) "Complaint" means a written allegation of misconduct by a registered athlete agent or student athlete which may constitute a violation of KRS ~~164.6901~~ to ~~164.6935~~ or 200 KAR Chapter 30.

(6) "Disciplinary action" means:

(a) A suspension or revocation or refusal to renew a registration for conduct that would have justified denial of a registration under KRS 164.6911(2) of an athlete agent's registration;

(b) The imposition of community service upon a student athlete; or

(c) A combination of the actions authorized in paragraphs (a) and (b) of this subsection.

(7) "Director" means the executive director of the Office of Occupations and Professions.

~~(8) "Division" is defined by KRS 164.680(4).~~

~~(9) "Investigative assistant" means an individual assigned by the office to assist in the investigation of a complaint.~~

(9) "Office" is defined by KRS 164.6903(5).

(10) "Student athlete" is defined by KRS ~~164.6903(13)~~.

WILLIAM L. BROWN, Executive Director

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, June 29, 2016 at 9:00 a.m., local time, at the Kentucky Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Thursday, June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel,

Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601. phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

1) Provide a brief summary of: Establishes the definitions for terms used in the regulations pertaining to the Uniform Athlete Agents Act.

(a) What this administrative regulation does: This administrative regulation establishes the definitions for terms used in the regulations pertaining to the Uniform Athlete Agents Act.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set uniform definitions for terms used in the regulations pertaining to the Uniform Athlete Agents Act.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 164.6905(3) authorizes the Office to promulgate regulations necessary to carry out the provisions of KRS 164.6901 to 164.6935. The uniform definitions for terms used in the administrative regulation are necessary to carry out that mandate.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the public of the definitions for the terms used in the administrative regulations pertaining to the Uniform Athlete Agents Act.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will update the terms used in the regulation to match those listed in the current statutory definitions listed in KRS 164.6903.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the definitions listed in the regulations to match definitions listed in the current statute KRS 164.6903. The regulations definitions were drafted in 1999, and new statutory definitions were added in 2010.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 164.6905(3) authorized the Office to promulgate regulations to carry out the provisions of KRS 164.6901 to 164.6935.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will update the definitions listed in the regulations to match definitions listed in the current statute KRS 164.6903.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek a certificate of registration to act as an athlete agent within the next fiscal year, this regulation will also continue as new applicants seek certificates of registration.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Registered agents will be required to use the definitions listed in the Uniform Athlete Agents Act and regulations to interpret the laws.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Office does not anticipate any cost to the applicants and registrants affected by the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and registrants will have uniform definitions applies to terms in the Uniform Athlete Agents Act and its regulations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The budget for the Office is \$38,000 annual. It will

not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Office is estimated to continue to have a budget of \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The office's operation is funded by fees paid by the registered athlete agents and applicants for new registrations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees. This regulation only sets the definitions for the terms used in the regulations.

(9) Tiering: Is tiering applied? No. Tiering is not applied because this change in the administrative regulation will apply to all applicants for registration as an athlete agent equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Occupations and Professions is the administrative body regulating the Uniform Athlete Agents Act pursuant to KRS 164.6905.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.6905(1), 164.6905(3), KRS 164.6911.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for registration for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for registration for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
(Amendment)

200 KAR 30:020. Complaint review.

RELATES TO: KRS 164.6913[164.680] – 164.6933[164.689]
STATUTORY AUTHORITY: KRS 164.6913(1), (2)[164.681(4)]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.6905(3)[164.681(4)] authorizes the office[division] to

promulgate administrative regulations necessary to implement KRS 164.6901[164.680] to 164.6935[164.689]. This administrative regulation establishes the procedure for review of a complaint against an athlete agent or student athlete. KRS 164.6905(3)[164.681(4)] authorizes the office[division] to promulgate administrative regulations establishing a procedure to review complaints against athlete agents and student athletes for violation of KRS 164.6901[164.680] to 164.6935[164.689], and the administrative regulations promulgated thereunder. This administrative regulation sets forth procedures for review of complaints.

Section 1. Form of Complaint: Response. (1) A complaint shall be:

- (a) Submitted to the division;
- (b) In writing; and
- (c) Signed by the person offering the complaint.

(2) A complaint may be filed by a person or institution, including the office[division] or appropriate college, university, or athletic regulatory body, based upon information in its possession.

(3) Upon receipt of a complaint, the office[division] shall:

- (a) Send a copy to the appropriate college, university, or athletic regulatory body; and
- (b) Send to the athlete agent or student athlete named in the complaint:

- 1. A copy of the complaint; and
- 2. A request for a response to the complaint.

(4) The response shall be:

- (a) Filed with the office[division] within twenty (20) days from the date of service of the complaint; and
- (b) Served upon the appropriate college, university, or athletic regulatory body.

Section 2. Review by Appropriate College, University, or Athletic Regulatory Body. (1) After the receipt of a complaint, and a response, or after the period of time for a response to be filed has expired, the appropriate college, university, or athletic regulatory body shall enter an initial determination within thirty (30) days stating in writing whether a formal investigation of the complaint is necessary. An extension of time shall be granted by the office[division] for good cause, upon request by the institution.

(2)(a) A college, university, or athletic regulatory body shall determine that a complaint does not warrant a formal investigation if:

- 1. The complaint does not allege a violation of KRS 164.6901[164.680] to 164.6935[164.689] or 200 KAR Chapter 30; or
- 2. The allegations in the complaint, if true, would not constitute a violation of KRS 164.6901[164.680] to 164.6935[164.689] or 200 KAR Chapter 30.

(b) If the college, university, or athletic regulatory body determines that a complaint does not warrant a formal investigation pursuant to paragraph (a) of this subsection, the college, university, or athletic regulatory body shall notify the complaining party, the person against whom the complaint was made, and the office[division] of its recommendation not to proceed in writing and within ten (10) days of the date of the decision. The office[division] shall:

- 1. Accept the recommendation not to proceed; or
- 2. Order a formal investigation under subsection (3) of this section.

(3) If the office[division], the appropriate college, university, or athletic regulatory body determines that a complaint warrants a formal investigation, the college, university, or athletic regulatory body shall:

(a) Issue a written statement notifying the office[division], person against whom the complaint was made, and person or institution making the complaint, of the decision to investigate the complaint; and

(b) Authorize its president, athletic director, or designated representative, and an investigative assistant, to investigate the complaint and report their findings and recommendations to the office[division] within ninety (90) days of the date of the notification

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of the decision to investigate. An extension of time shall be granted by the office[division] for good cause shown.

Section 3. Issuance of Recommendations: Review by the Office[Division]. (1) Upon completion of the formal investigation, the college, university, or athletic regulatory body shall issue a written report to the office[division] stating its factual findings and recommendations as to the proper disposition of the complaint. The recommendations shall be served upon the person against whom the complaint was made. If disciplinary action is recommended, the report shall state the charges upon which the recommendations are based.

(2) Within fifteen (15) days of receipt of the recommendation, the office[division] shall take action as required by KRS 164.6913[164.687(1)].

(3) If the office[division] determines that the charges do not warrant disciplinary action, the complaint shall be dismissed. The office[division] shall notify the complaining party, the individual being investigated, and the appropriate college, university, or athletic regulatory body, of the outcome of the complaint.

(4) If the office[division] determines that the charges warrant disciplinary action, the office[division] shall issue an order stating the charges, and the disciplinary action imposed. The order shall be signed by the director and served upon the person disciplined by certified mail.

(5) An order by the office[division] may be appealed as authorized by KRS 164.6913(2)[164.687(2)].

Section 4. Notice and Service of Process. (1) Unless waived by the recipient, service of notice and other process shall be made by hand-delivery or delivery by certified mail, return receipt requested, to the individual's last-known address provided to the office at the time of registration or, if known, by regular mail on the named individual's attorney or registered agent.

(2) Refusal of service if by certified mail, or avoidance of service if hand-delivered, shall not prevent the office[division] from proceeding, as may be appropriate.

WILLIAM L. BROWN, Executive Director

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, June 29, 2016 at 9:00 p.m., local time, at the Kentucky Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Thursday, June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marcus Jones

(1) Provide a brief summary of: Establishes the procedures for receiving and processing complaints regarding agents and athletes under the Uniform Athlete Agents Act and its regulations.

(a) What this administrative regulation does: This

administrative regulation establishes the procedures for receiving and processing complaints regarding the agents and athletes under the Uniform Athlete Agents Act and its regulations.

(b) The necessity of this administrative regulation: The regulation is necessary to establish uniform procedures for receiving and processing complaints. The regulation is necessary for establishing a hearing and appeal procedure registered agent and athlete disciplinary actions.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 164.6905(3) authorizes the Office to promulgate regulations necessary to carry out the provisions of KRS 164.6901 to 164.6935. KRS 164.6911 authorizes the office to investigate allegations brought to its attention and prosecute violations of the Uniform Athlete Agents Act.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees and the public of the complaint procedures and hearing process for complaints.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will update the current complaint procedures listed in 200 KAR Chapter 30 to match statute changes implemented by the General Assembly to the Uniform Athlete Agents Act.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to add protections of the confidential information of individuals that file complaints. The amendment is necessary to update the current complaint procedures listed in 200 KAR Chapter 30 to match statute changes implemented by the General Assembly to the Uniform Athlete Agents Act.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 164.6905 authorizes the Office to promulgate regulations and enforce the provisions of the Uniform Athlete Agents Act. KRS 164.6913 allows the Office to take disciplinary action against registered agents and student athletes that violate the terms of the Uniform Athlete Agents Act and regulations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will protect individuals that file complaints by creating a process to protect personal contact numbers and information. The amendment will update the current complaint procedures listed in 200 KAR Chapter 30 to match statute changes implemented by the General Assembly to the Uniform Athlete Agents Act.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 225 persons will seek a certificate of registration as an athlete agent within the next fiscal year, this regulation will also continue as new applicants seek a certificate of registration from the Office.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires the public to comply with the complaint procedures that protect student athletes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs to registered agents or student athletes to comply with this regulation that are anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals that file complaints will have confidential identifying information protected by the Office. The public will have updated regulations that match the Uniform Athlete Agents Act.

(5) Provide an estimate of how much it will cost the

administrative body to implement this administrative regulation:

(a) Initially: The budget for the Office is \$55,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Office is estimated to continue to have a budget of \$55,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The office's operation is funded by fees paid by the registered athlete agents and applicants for new registrations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does not increase or establish a fee. This regulation only establishes the procedure for the review of complaints.

(9) Tiering: Is tiering applied? No. Tiering is not applied because this change in the administrative regulation will apply to all registered agents and applicants for registration as an athlete agent equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Office of Occupations and Professions is the administrative body regulating the Uniform Athlete Agents Act pursuant to KRS 164.6905.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.6905, 164.6913, KRS 164.6929.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for registration for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for registration for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
(Amendment)**

200 KAR 30:030. Procedure for registration.

RELATES TO: KRS 164.6907(1), 164.6909, 164.6911~~[164.682]~~

STATUTORY AUTHORITY: KRS 164.6905(3), 164.6909, 164.6911(1)~~[164.681(4), 164.682(2)(a)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.6905(3)~~[164.681(4)]~~ authorizes the office~~[division]~~ to promulgate administrative regulations necessary to implement the provisions of KRS 164.6903~~[164.680]~~ to 164.6935~~[164.689]~~. KRS 164.6909~~[164.682(2)(a)]~~ requires a person to register as an athlete agent by completing and submitting to the office~~[division]~~ the required application. This administrative regulation establishes the procedures for application and registration of an athlete agent.

Section 1. Application Procedures. (1) An applicant for registration shall submit to the office~~[division]~~:

(a) A completed Athlete Agent Directory Application Form~~[Application for Athlete Agent Registration]~~;

(b) The fee required by KRS 164.6915(1)~~[164.682(2)(b)]~~ and 200 KAR 30:040;

(c) A copy of the information required by KRS 164.6909~~[164.682(2)(c)]~~; and

(d) A copy of the agent contract with the student athlete.
(2) An application shall be complete and signed by the applicant.

(3) The office~~[division]~~ may request clarification and verification of the information provided in the application.

~~[(4) To file a surety bond with the division pursuant to KRS 164.682(2)(c)1, an agent shall submit to the division a completed Bond for Athlete Agents.]~~

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Athlete Agent Directory Application Form", 4/2016~~[Application for Athlete Agent Registration (2/99)]~~; and

(b) "Application for Renewal of Registration as an Athlete Agent", 4/2016~~[Bond for Athlete Agents (2/99)]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office~~[Division]~~ of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM L. BROWN, Executive Director

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall be held on Wednesday, June 29, 2016 at 9:00 a.m., local time, at the Kentucky Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Thursday, June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601. phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the procedure for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents

Act.

(a) What this administrative regulation does: This administrative regulation establishes the procedures for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set uniform procedures for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 164.6905(3) authorizes the Office to promulgate regulations necessary to carry out the provisions of KRS 164.6901 to 164.6935. KRS 164.6907 requires an individual to apply for and hold a certificate of registration to act as athlete agent in the Commonwealth of Kentucky. KRS 164.6911 requires registered athlete agents to renew registration annually.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes uniform procedures for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will update the procedures for applying for a certificate of registration to match those listed in the current statutes enacted by the General Assembly. The amendment will incorporate the current application form and renewal form used by the Office.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the application procedures listed in the regulations to match the terms stated in the current statute KRS 164.6907 and KRS 164.6911. The regulations were drafted in 1999, and new statutory terms were added in 2003. The amendment is needed to incorporate the current application form and renewal form used by the Office.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 164.6905(3) authorized the Office to promulgate regulations to carry out the provisions of KRS 164.6901 to 164.6935.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will update the procedure for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky. The amendment will update the regulations to match the current statute KRS 164.6907 and 164.6911.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek a certificate of registration to act as an athlete agent within the next fiscal year, this regulation will also continue as new applicants seek certificates of registration.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Registered agents will be required to use the application procedures and terms listed in the regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Office does not anticipate any cost to the applicants and registrants affected by the regulation other than the application fees established in KRS 164.6915.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and registrants will have uniform application procedures in the Uniform Athlete Agents

Act and its regulations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The budget for the Office is \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Office is estimated to continue to have a budget of \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The office's operation is funded by fees paid by the registered athlete agents and applicants for new registrations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees. The fees assessed to applicants for registration and renewals are established in KRS 164.6915.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the procedures for application as a registered athlete agent will apply to all applicants for registration as an athlete agent equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Office of Occupations and Professions is the administrative body regulating the Uniform Athlete Agents Act pursuant to KRS 164.6905.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.6905(1), 164.6905(3), KRS 164.6907.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for registration for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for registration for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
(Amendment)**

200 KAR 30:040. Fees.

RELATES TO: KRS 164.6915[164.682(2)(b)]

STATUTORY AUTHORITY: KRS 164.6909[164.684],
164.6915[164.682(2)(b)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.6909 requires a person registering as an athlete agent to submit an application for registration to the office in a form prescribed by the office. KRS 164.6915[164.682(2)(b)] requires a person registering as an athlete agent to pay a registration fee and renewal fee as established by the office[division]. This administrative regulation establishes the fees charged by the office[division].

Section 1. Application and Renewal Fees. (1) The fee for initial registration with the Kentucky Office[Division] of Occupations and Professions as an athlete agent shall be \$300.

(2) The registration renewal fee shall be paid as of March 31 of each year.

(a) The renewal fee for registration as an athlete agent shall be \$100[if paid by March 31].

(b)[The late renewal fee during a sixty (60) day grace period after March 31 shall be \$150.

(c) The late renewal fee after the sixty (60) day grace period, but during a one (1) year period after March 31, shall be \$200.

(d) The office[division] shall:

1. revoke a registration not renewed on or before[within one (1) year of] March 31[; and

2. Reinstate the registration upon:

a. Satisfaction of all requirements necessary for an initial applicant; and

b. Payment of a reinstatement fee of \$300].

Section 2. Verification of Registration Fee. The fee for a verification of a registration shall be fifteen (15) dollars.

WILLIAM L. BROWN, Executive Director

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, June 29, 2016 at 9:00 p.m., local time, at the Kentucky Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Thursday, June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the fees for applying for a certificate of registration to act as an athlete agent in

the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(a) What this administrative regulation does: This administrative regulation restates the fees and procedure for paying fees for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set uniform fees and procedures for paying the fees required for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 164.6905(3) authorizes the Office to promulgate regulations necessary to carry out the provisions of KRS 164.6901 to 164.6935. KRS 164.6907 requires an individual to apply for and hold a certificate of registration to act as athlete agent in the Commonwealth of Kentucky. KRS 164.6911 requires registered athlete agents to renew registration annually. KRS 164.6915 establishes the application and renewal fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes uniform procedures for paying fees for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will update the procedures for paying fees for a certificate of registration to match those listed in the current statutes enacted by the General Assembly.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the fee payment procedures listed in the regulations to match the terms stated in the current statute KRS 164.6907, KRS 164.6911, and KRS 164.6915. The regulations were drafted in 1999, and new statutory terms were added in 2003 through 2010.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 164.6905(3) authorized the Office to promulgate regulations to carry out the provisions of KRS 164.6901 to 164.6935.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will update the procedure for paying fees required for applying for a certificate of registration to act as an athlete agent in the Commonwealth of Kentucky. The amendment will update the regulations to match the current statute KRS 164.6907, 164.6911, and 164.6915.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek a certificate of registration to act as an athlete agent within the next fiscal year, this regulation will also continue as new applicants seek certificates of registration.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Registered agents will be required to use the application procedures and terms listed in the regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Office does not anticipate any cost to the applicants and registrants affected by the regulation other than the fees established in KRS 164.6915.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and registrants will have uniform application procedures in the Uniform Athlete Agents Act and its regulations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

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(a) Initially: The budget for the Office is \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Office is estimated to continue to have a budget of \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The office's operation is funded by fees paid by the registered athlete agents and applicants for new registrations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees. The fees assessed to applicants for registration and renewals are established in KRS 164.6915.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the procedures for application as a registered athlete agent will apply to all applicants for registration as an athlete agent equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Office of Occupations and Professions is the administrative body regulating the Uniform Athlete Agents Act pursuant to KRS 164.6905.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.6905(1), 164.6905(3), KRS 164.6915.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for registration for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for registration for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
(Amendment)**

200 KAR 30:070. Records retention.

RELATES TO: KRS 164.6917, 164.6923[164.684(2)], 164.685
STATUTORY AUTHORITY: KRS 164.6923[164.681(4)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.6917[164.684(2)] and 164.6923[164.685] require an athlete agent and student athlete to provide to the college or university in which a student athlete is enrolled written notification of an agent contract or the acceptance of in-kind benefits. This administrative regulation establishes the records retention requirements for a college or university receiving this written notification.

Section 1. (1) A college or university ~~that~~[~~which~~] receives written notification that a student athlete has entered an agent contract or accepted in-kind benefits from an athlete agent shall:

(a) Record the time and date of receipt of the notification; and
(b) Maintain the written notification, and the record of time and date of receipt, for a period of five (5) years.

(2) The records shall be subject to inspection by an authorized agent of the office[~~division~~].

WILLIAM L. BROWN, Executive Director

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, June 29, 2016 at 9:00 a.m., local time, at the Kentucky Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Thursday, June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the records retention schedule for registered athlete agents in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(a) What this administrative regulation does: This administrative regulation states the records retention schedule for registered athlete agents in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set uniform records retention schedule for registered athlete agents in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 164.6905(3) authorizes the Office to promulgate regulations necessary to carry out the provisions of KRS 164.6901 to 164.6935. KRS 164.6917 and 164.6923 requires the retention of contracts and records held by a registered athlete agent with those records being open for inspection by the Office.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes uniform procedures and records retention schedules for registered athlete agents in the Commonwealth of Kentucky under the Uniform Athlete Agents Act.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will update the schedule and procedures for records retention to incorporate current statutes.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the records retention schedule and procedures to incorporate terms in the current statute KRS 164.6917 and KRS 164.6923. The regulations were drafted in 1999, and new statutory terms were added in 2003 through 2010.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 164.6905(3) authorized the Office to promulgate regulations to carry out the provisions of KRS 164.6901 to 164.6935. A records retention schedule is required by KRS 164.6917 and KRS 164.6923.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will update the procedures for records and contact retention for a registered agent with the current statutes. The amendment will update the regulations to match the current statutes KRS 164.6917 and 164.6923.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek a certificate of registration to act as an athlete agent within the next fiscal year, this regulation will also continue as new applicants seek certificates of registration.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Registered agents will be required to use the records retention schedule and contract retention procedures mandated by KRS 164.6917 and KRS 164.4923.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Office does not anticipate any cost to the applicants and registrants affected by the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Registered agents will have uniform records retention schedule in the Uniform Athlete Agents Act and its regulations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The budget for the Office is \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Office is estimated to continue to have a budget of \$38,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The office's operation is funded by fees paid by the registered athlete agents and applicants for new registrations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees. The fees assessed to applicants for registration and renewals are established in KRS 164.6915.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the records retention schedule and procedures apply equally to all registered athlete agents doing business in the Commonwealth of Kentucky.

(including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Occupations and Professions is the administrative body regulating the Uniform Athlete Agents Act pursuant to KRS 164.6905.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.6905, KRS 164.6917, KRS 164.6923.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for registration for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for registration for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

**GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)**

201 KAR 14:015. Retaking of examination.

RELATES TO: KRS 317.440, 317.450, 317.570

STATUTORY AUTHORITY: KRS 317.440(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(1)(e) requires the Board of Barbering to promulgate administrative regulations pertaining to exam requirements. This administrative regulation establishes the requirements for an examinee who fails one (1) or more portions of the probationary examination and wishes to retake the exam.

Section 1. Probationary License Examination Requirements.

(1) An applicant shall pass each portion of the probationary examination with a score of at least seventy-five (75) percent.

(2)(a) Except as provided by paragraphs (b) and (c) of this subsection, an applicant who does not successfully complete one (1) portion of the probationary exam may reapply to sit for the failed portion only.

(b) A passing score on one (1) portion of the probationary exam shall only be used for a period of one (1) year to exempt the applicant from retaking that portion of the examination.

(c)1. If an applicant has failed one (1) or more portions of the probationary examination two (2) consecutive times, the applicant shall be required to:

a. Return to barber school licensed by the board for eighty (80) additional hours of training; and

b. Retake the entire examination.

2. Each unsuccessful attempt to pass the examination thereafter shall require the applicant to complete the conditions delineated in subparagraph 1. of this paragraph.

Section 2. An examination fee shall be required for each examination, in accordance with 201 KAR 14:180.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government

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Section 3. Instructor License Examination Requirements. (1) An applicant who has failed one (1) or more portions of the instructor exam may reapply to sit for:

- (a) The entire exam; or
- (b) The failed portion or portions only.

(2) A passing score on one (1) or more portions of the instructor exam shall only be used for a period of one (1) year to exempt the applicant from retaking that portion or portions of the examination.

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes conditions if an examinee fails and assures examinees the opportunity of retaking the examination.

(b) The necessity of this administrative regulation: This administrative regulation will add the language to require an examinee that fails twice to return to a Kentucky licensed school for the 80 hours.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It sets the requirement for passing exams as established by KRS 317.440, KRS 317.450 and KRS 317.570.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It will make an examinee that fails the Probationary Barber exam twice to return to a Kentucky licensed school for the 80 hours rather than a barber college in a different state.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It clarifies Section 1(2)(c) which requires an examinee who fails the exam twice to return to a barber school licensed by the board to complete an additional 80 hours of education.

(b) The necessity of the amendment to this administrative regulation: Is to insure that students are learning what is required according to Kentucky curriculum and are being provided an overall refresher in order to be prepared for the exam.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to promulgate administrative regulations governing examinations as established by KRS 317.440.

(d) How the amendment will assist in the effective administration of the statutes: It will provide out of state students learning opportunity from a licensed Kentucky barber college.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 188 students currently

attending barber schools, 58 probationary licensees, and the 9 schools licensed with the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: If an examinee fails the test twice they will have to return to a barber school licensed by the board to complete an additional 80 hours of education.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not regulate the school tuition costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will know what they need to brush up on during the 80 hours in order to pass the exam the next time.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Kentucky Board of Barbering.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.440(1)(e).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$0

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer this administrative regulation for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:015 will not create any new revenues for either the agency or State Government.

**GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)**

201 KAR 14:030. Five (5) year expiration of license.

RELATES TO: KRS 317.410, 317.450

STATUTORY AUTHORITY: KRS 317.440, 317.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.450 requires the Board of Barbering to license barbers and authorizes the board to renew a license that has not been expired more than five (5) years. This administrative regulation establishes the relicensing requirements for a barber whose license has been expired over five (5) years.

Section 1. If a license has been expired for more than five (5) years, an applicant for relicensure shall meet the requirements established in this section.

(1) A barber shall pass both the practical and written examination.

(2) To regain a probationary license, a probationary barber shall:

(a) Complete 150 additional hours in training in a barber school licensed by the board [an accredited school of barbering]; and

(b) Pass the practical and written examinations.

(3) A teacher shall pass both practical and written examinations, in accordance with 201 KAR 14:115.

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements of an individual whose has expired more than five (5) years.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the process of a prior licensee to obtain a license after five (5) years has lapsed and be properly retrained.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It sets the requirement for passing exams as established by KRS 317.440, KRS 317.450 and KRS 317.570.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation assists the board in insuring that a prior licensee has been retrained and can demonstrate the skill necessary to engage in the practice of barbering.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative

regulation: The regulation will require an individual to complete a 150 hours from a barber school approved by the board.

(b) The necessity of the amendment to this administrative regulation: The amendment ensures that a prior licensee to obtain the necessary education and demonstrate that he or she still have the necessary skills as a barber after five (5) years has lapsed from the expiration of the individual's license.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to promulgate administrative regulations governing examinations as established by KRS 317.440.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists the board in insuring that a prior licensee has been retrained and can demonstrate the skill necessary to engage in the practice of barbering.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 9 schools licensed with the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: If an individual allows a license to expire for more than five (5) years, the individual must obtain 150 hours of additional training from a barber school licensed by the board and pass the appropriate examinations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment does not create any new costs associated with an individual identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The individuals whose license has expired will be retrained and demonstrate the ability to engage in the practice of barbering so they can avoid complaints by clients.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Kentucky Board of Barbering.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.440, 317.450.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$0

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer this administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:030 will not create any new revenues for either the agency or State Government.

**GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)**

201 KAR 14:045. Notification of new locations.

RELATES TO: KRS 317.440

STATUTORY AUTHORITY: KRS 317.440

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(1)(a) authorizes the board to promulgate an administrative regulation regarding the location of a barber shop or barber school. This administrative regulation sets up the time for notification for new barber shops.

Section 1. A new barber shop shall request an inspection by the board.~~All new barber shops and all barber shops moving to new locations shall notify the board~~ at least five (5) days before opening for business~~, of the new location and the date on which the shop is to be open for business.~~

Section 2. A licensed barber shop moving to a new location shall notify the board of its new location at least five (5) days before opening for business.

Section 3. A new barber shop or a licensed barber shop moving to a new location shall not be open for business until inspected and approved by the board.

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation

requires a new barber shop or barber shop moving to a new location to notify the board within five (5) days of its scheduled opening date.

(b) The necessity of this administrative regulation: To insure that a new barber shop or barber shop moving to a new location are in compliance prior to providing services to the general public.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It reaffirms that a new barber shop or barber shop moving to a new location must be inspected prior to opening.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It reaffirms that a new barber shop or barber shop moving to a new location must be inspected prior to opening.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: No change in the current requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment clarifies that neither a new barber shop nor barber shop moving to a new location may open prior to an inspection and approval by the board.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to promulgate administrative regulations governing new shop as established by KRS 317.440.

(d) How the amendment will assist in the effective administration of the statutes: Serves to reiterate the required inspection and board approval prior to opening.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any prospective new shops.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Once applying for a new shop they will be required to have an inspection prior to opening.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): \$0

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will then be provided a license to open.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fee will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Kentucky Board of Barbering licensees.

(2) Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. KRS 317.440.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$0

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer the administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:040 will not create any new revenues for either the agency or State Government.

**GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)**

201 KAR 14:090. School curriculum.

RELATES TO: KRS 317.410, 317.440(1)(e), 317.540

STATUTORY AUTHORITY: KRS 317.440(1)(e), 317.540(2),

(3) NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(1)(e) requires the Board of Barbering to promulgate an administrative regulation governing the hours and courses of instruction at barber schools. KRS 317.540 requires the board to promulgate an administrative regulation prescribing the courses and requirements for a barber school. This administrative regulation establishes requirements for the course of study at barber schools.

Section 1. A student shall receive at least 1,500 hours in practice work and lectures based on the following courses of study:

(1) Instruments - thirty (30) hours:

- (a) Razors;
- (b) Shears;
- (c) Clippers;
- (d) Hones and strops; and
- (e) Combs, brushes, hair dryers, and curling irons;

(2) Shaving instructions – 100 hours:

- (a) Purpose of lather;
- (b) Application of lather properly to the face;
- (c) Sterilization of razor before shaving;
- (d) Stretching the skin while shaving;
- (e) Proper method for wiping the razor;
- (f) Shaving a patron once over;
- (g) Shaving a patron second time over;
- (h) Method of removing soap and cleaning face with hot towels after shaving;
- (i) Application of various after shave creams and lotions;
- (j) Trimming a mustache; and
- (k) Demonstrations and lectures on the various positions for holding a razor to shave a face while standing on one (1) side of the barber chair.

1. Each stroke shall be thoroughly explained.

2. The instructor shall ensure that the student:

- a. Uses professional technique while performing the shaving strokes;
- b. Understands the necessity of:

- (i) Personal hygiene;
 - (ii) Using clean linens; and
 - (iii) Sterilizing each instrument used on a patron; and
- c. Is advised to pay attention to a patron's comfort while in the chair.
3. The different textures of beards and the directions of the grain shall be explained;
- (3) Haircutting for men, women, and children – 935 hours:
- (a) Application of hair cloth, towel, and neck strip;
 - (b) Combing hair before cutting;
 - (c) Method of tapering hair;
 - (d) Method of thinning hair;
 - (e) Method of finger work;
 - (f) Method of cutting hair on top of head;
 - (g) Method of cutting hair with a razor;
 - (h) Using a neck duster or tissue;
 - (i) Method of shaving sides and neck after removing hair cloth;
 - (j) Method of combing, drying, and dressing the hair; and
 - (k) The methods of haircutting and hair styling;
- (4) Shampooing – forty (40) hours:
- (a) Purpose of and giving a proper shampoo;
 - (b) Preparing customer for shampoo;
 - (c) Different materials to be used; and
 - (d) Difference in various kinds of shampoo;
- (5) Permanent waving – forty (40) hours:
- (a) Explanation of chemical and physical actions in permanent waving;
 - (b) Necessity of scalp and hair analysis;
 - (c) Basic requirements, blocking sections, curling rods, and processing time; and
 - (d) Safety and protection for patrons;
- (6) Hair coloring – forty (40) hours:
- (a) Safety measures;
 - (b) Chemicals involved; and
 - (c) Application;
- (7) Hair straightening and relaxing – forty (40) hours:
- (a) Patron protection;
 - (b) Hair and scalp analysis; and
 - (c) Methods of application;
- (8) Massaging – thirty-five (35) hours:
- (a) Theory and different types of massaging;
 - (b) Application and demonstration of various creams and lotions in facial;
 - (c) Effect of light therapy on tissues;
 - (d) Results produced by massage on the skin, muscles, cells, glands, and circulation;
 - (e) Proper recommendation of massage; and
 - (f) All modern, electrical equipment used in barber shops with demonstrations;
- (9) Scalp and skin diseases – twenty (20) hours:
- (a) Various kinds of scalp treatment;
 - (b) Properly advising a patron to consult a physician;
 - (c) The danger of giving a scalp treatment to a scalp afflicted with an unknown disease;
 - (d) Explanation of causes and treatment of dandruff;
 - (e) Giving causes of dry and oily scalps and treatment;
 - (f) Explanation of various forms of alopecia and treatment;
 - (g) Explanation of causes of seborrhea, acne, psoriasis, impetigo, and eczema in their various forms; and
 - (h) Explanation of advisability of cooperating with physician in treating scalp in barber shop;
- (10) Physiology and anatomy of the head, face, and neck – 100 hours:
- (a) Giving descriptions of skin, hair, glands, and their various functions;
 - (b) Shedding and regrowth of hair;
 - (c) Sweat glands and their functions;
 - (d) Hair follicle, hair bulb, and papilla;
 - (e) Sympathetic and cerebrospinal nervous system;
 - (f) Blood supply to the face and scalp;
 - (g) Preservation and beautification of the hair and skin;
 - (h) Microscopic studies of the hair; and
 - (i) Benefits derived from relaxation from fatigue while in barber

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chair;

(11) Sterilization and sanitation – forty (40) hours:

(a) Definition of sterilization, disinfectants, antiseptics, and their uses;

(b) Chemicals to be used in sterilization;

(c) Methods of sterilization;

(d) Difference between contagion and infection;

(e) Taking precautions to prevent infection; and

(f) Importance of sterilization of all instruments used in the barber shop;

(12) Hygiene – ten (10) hours:

(a) Theory and importance of personal hygiene; and

(b) Hygiene as it applies to the practice of barbering;

(13) Bacteriology – twenty (20) hours:

(a) Discovery of existence of bacteria;

(b) Production, growth, and destruction of bacteria;

(c) Necessity of elementary knowledge of bacteria;

(d) Possibility of barber shop infection;

(e) Various agents that may carry bacteria in barber shop service;

(f) Difference in bacteria that are helpful and needed and bacteria that are harmful; and

(g) Advice concerning absolute cleanliness and sanitation in all practices of barbering because of harmful bacteria;

(14) Electricity – ten (10) hours: Explanation of various electrical equipment and appliances that can be used in barber science treatments;

(15) Pharmacology – twenty (20) hours: Explanation of the value of medicinal and nonmedicinal ingredients found in barber shop preparations, hair dyes, face lotions, shampoos, permanent, tints, bleaches, and specially prepared face and scalp remedies designated for local action;

(16) Psychology – ten (10) hours:

(a) Necessity of organization;

(b) High ideals in the barber business; and

(c) Emphasis on development of personality and skill to inspire confidence in the public; and

(17) History, professional ethics, and other information – ten (10) hours:

(a) History of the barber profession;

(b) Importance of barbering and its relation to civilization; and

(c) Business management, bookkeeping, shop management, and advertising.

Section 2. (1) A student shall complete the course of study required by Section 1 of this administrative regulation as required by KRS 317.540(1).

(2) Each student shall receive at least one (1) hour:

(a) A week devoted to the teaching and explanation of KRS Chapter 317 and 201 KAR Chapter 14; and

(b) Of combined lecture and demonstration each day.

Section 3. (1) A microscope shall be part of the school's equipment to enable a student to study the structure of the hair and scalp.

(2) There shall be a reference library including a medical dictionary, books on anatomy and physiology and other books dealing with the functions of the human body which are applicable to the proper practice of the barber profession.

Section 4. A teacher assistant shall not be counted as a teacher for purposes of compliance with the ratio requirement of KRS 317.540(5).

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to

attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation establishes requirements for the course of study at barber schools.

(b) The necessity of this administrative regulation: The regulation is necessary to notify the requirements for the course of study at barber schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317.440 and 317.540 authorizes the board to promulgate an administrative regulation prescribing the courses and requirements for a barber school.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board, and the required course of study at barber schools as well as the instructor to student ratio.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment clarifies KRS 317.540(5) that a teacher assistant is not to be considered in the instructor to student ratio at a school.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to insure barber schools maintain the appropriate instructor to student ratio.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 317.440 and 317.540 authorizes the board to promulgate an administrative regulation prescribing the courses and requirements for a barber school.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board, and the required course of study at barber schools as well as the instructor to student ratio.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 9 barbering schools.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A barbering school will have no additional cost or impact as a result of the amendment. The amendment merely clarifies the ratio requirements of KRS 317.540(5).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): \$0

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The barbering school understands the ratio requirements of KRS 317.540(5).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fee will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Barbering.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.440, 317.450.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$0

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer the administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:110 will not create any new revenues for either the agency or State Government.

GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)

201 KAR 14:110. School equipment; plant layout.

RELATES TO: KRS 317.410, 317.440

STATUTORY AUTHORITY: KRS 317.430, 317.440

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(1)(b) authorizes the board to promulgate an administrative regulation regarding the quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools. This administrative regulation establishes the barber school equipment and plant layout requirements.

Section 1. Each barber school ~~shall~~**[must]** send the board a certificate from the zoning commission and a certificate from a licensed electrician or electrical firm showing the electrical equipment to be properly installed, properly grounded, and in safe operating condition.

Section 2. Barber schools ~~shall~~**[must]** be completely equipped with standard tonics, dyes, tints, bleaches, shampoos, cosmetics, permanents, etc., all electrical devices and other equipment for the proper instruction of students, as well as with equipment and supplies for sanitation and hygiene.

Section 3. Barber schools ~~shall~~**[must]** be so located as to be entirely separated and have no connection with any beauty or barber shop or any other place of business.

Section 4. No barber school ~~shall~~**[will]** be approved by this board having a space less than six (6) feet square for each student enrolled therein.

Section 5. All accredited barber schools shall have a suitable and separate room to be used for demonstration and study, said room to have necessary charts and equipment to carry out the curriculum. The following equipment is required for this room:

(1) Sufficient charts, blackboards, etc., to teach all subjects of barbering.

(2) Sufficient classroom chairs with armrests, or desks, that will enable the student to take notes.

Section 6. Every barber school ~~shall~~**[is required to]** maintain a separate lavatory and toilet for male and female students.

Section 7. All barber schools ~~shall~~**[must]** comply with city and state building codes and zoning commission codes.

Section 8. Lockers, dressing rooms and restrooms ~~shall~~**[must]** be provided.

Section 9. Booths and partitions in the work department shall be sufficiently low to permit the observation of students while they are working.

Section 10. No school of barbering ~~shall~~**[will]** be approved by the board having less than the following equipment: shampoo bowls with hot and cold running water to be located in the room where barbering is done; dryers; manicure tables; (a liquid sterilizer is required on each manicure table) hair cutting chair; wall plates; covered waste containers; individual paper towels; and containers for the use of students.

Section 11. (1) Each barbering school is required to furnish a supply or dispensing room in which each student may obtain actual experience for a period of one (1) to three (3) weeks, as indicated by the course of instruction. The student will be directly responsible to the owner for any damage incurred due to the student's negligence or willful destruction while working in the supply or dispensing room.

(2) Supply or dispensing and sterilization room equipment required for a barbering school:

(a) Supply of clean linens, neck cloths, etc.

(b) Lavatory for washing all combs, instruments, containers, etc.

(c) Bottles and containers in use ~~shall~~**[must]** be distinctly and correctly labeled.

(d) Wet sterilizer.

(e) Dry sterilizer.

(f) Manicuring sterilizer.

(g) Soap dispenser.

(h) Covered waste container.

(i) Cabinet for supply of clean linens.

(j) Covered containers for soiled linens.

(k) Cabinets for accessories.

(l) Paper towel dispenser or clean towel cabinet for every two (2) stations~~[individual paper towel container]~~.

(m) Manicuring cups for preparation of solution from stock supplies.

(n) Various solutions and preparations used.

Section 12. A barbering school licensed by the board prior to the effective date of this administrative regulation shall not be required to comply with the requirements of Sections 10 and 11(2)(l) of this administrative regulation.

SONJA MINCH, Administrator
APPROVED BY AGENCY: May 13, 2016
FILED WITH LRC: May 13, 2016 at noon

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PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation establishes what equipment is required to be in a barber school equipment and plant layout of a barbering school.

(b) The necessity of this administrative regulation: The regulation is necessary to insure that students are provided all the equipment to obtain a competent education at a barbering school..

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317.440 authorizes the board to promulgate an administrative regulation regarding the qualifications of a barbering school.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board, and what equipment is required to be in a barber school equipment and plant layout of a barbering school.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment requires shampoo bowls with hot and cold running water to be located in the room where barbering is done and paper towel dispenser or clean towel cabinet for every two stations.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to mirror the requirements of a barber shop so that a student receives an education in a true barber shop setting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 317.440 authorizes the board to promulgate an administrative regulation regarding the qualifications of a barbering school.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board, and what equipment is required to be in a barber school equipment and plant layout of a barbering school.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 9 barbering schools.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A barbering school will have to insure that a shampoo bowls with hot and cold running water to be located in the room where barbering is done and paper towel dispenser or clean towel cabinet for every two stations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): \$0

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The barbering school will be more professional in providing an educational setting that mirrors a barber shop.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fee will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Barbering.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.430, 317.440.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$0

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer the administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:110 will not create any new revenues for either the agency or State Government.

GENERAL GOVERNMENT CABINET Board of Barbering (Amendment)

201 KAR 14:125. Teacher and teacher assistant[Teachers' and instructors'] requirements.

RELATES TO: KRS 317.440

STATUTORY AUTHORITY: KRS 317.440

NECESSITY, FUNCTION, AND CONFORMITY: KRS

317.440(1)(c) authorizes the board to promulgate an administrative regulation regarding the qualifications of teachers of barbering.

This administrative regulation establishes rules for school faculty and establishes conditions for unlicensed instructors.

Section 1. (1) The board shall issue a teacher assistant license

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to an applicant who:

(a) Holds an active valid license issued by the board as a barber;

(b) Has held an active valid license issued by the board as a barber for a minimum of eighteen (18) months; and

(c) Has achieved a passing score on the written teacher's examination required by the board.

(2) The board shall issue a teacher license to an applicant who:

(a) Has completed all requirements under subsection (1) of this section;

(b) Has achieved a passing score on the oral teacher's examination required by the board;

(c) Has achieved a passing score on the practical teacher's examination required by the board; and

(d) Has completed a minimum of twelve (12) months and 600 hours of instructional experience in a barber school licensed by the board under the supervision of the teacher licensed by the board. The instructional experience shall be a minimum of four (4) hours a day and a maximum of eight (8) hours a day.

(3) A passing score shall be a minimum score of eighty (80) percent on a required examination required by subsection (1) of this section.

(4) A teacher assistant license shall be valid for twelve (12) months from date of issuance. The twelve (12) month licensure period may be extended by the board to the next scheduled oral and practical teacher's examination date. A teacher assistant shall submit a written request for the extension of the twelve (12) month licensure period prior to expiration of the license. ~~All teachers and instructors in a school must hold both a barber and barber instructor license issued by the board.~~

Section 2. (1) A teacher or teacher assistant ~~[An instructor]~~ shall be in the study and classroom of a school during all class and study hours and will be required to supervise all practice student work.

(2) A student shall be under the face-to-face, direct supervision of a teacher or teacher assistant while providing services to a client.

Section 3. No licensed barber shall render services in a school, and a teacher or a teacher assistant ~~[instructors]~~ shall render services only incident to and for the purpose of instruction.

Section 4. A teacher or teacher assistant ~~[Every instructor]~~ in an accredited school shall devote his or her entire time during school or class hours to that of instructing the students and shall not apply his or her time to that of private or public practice for compensation during school hours or permit students to instruct or teach other students in the absence of a teacher or a teacher assistant ~~[a teacher]~~.

Section 5. Properly qualified, licensed barbers may demonstrate to the students new processes, new preparations, and new appliances in the presence of a teacher or a teacher assistant ~~[registered teachers]~~. Schools shall not permit more than four (4) such demonstrations in any calendar year.

Section 6. All services rendered in a school on patrons shall ~~[must]~~ be done by students only. A teacher or a teacher assistant ~~[Instructors]~~ shall be allowed to teach and aid the students in performing the various services. A teacher or a teacher assistant ~~is~~ ~~[Instructors are]~~ permitted to finish up the patrons after the students have completed their work.

Section 7. A teacher or a teacher assistant ~~[Instructors]~~ in attendance shall ~~[must]~~ at all times wear a clean, washable outer garment such as a coat or smock.

Section 8. Schools shall require a teacher or a teacher assistant ~~[instructors]~~ to wear an insignia or badge indicating that he or she is a teacher or a teacher assistant ~~[an instructor]~~.

Section 9. A teacher or a teacher assistant shall notify the board, in writing, of the supervision relationship and signed by the teacher and teacher assistant. The notification shall be submitted prior to the beginning of the supervision relationship.

Section 10. A teacher shall not be the supervisor of record for more than two (2) teacher assistants.

Section 11. A teacher who is licensed by the board prior to the effective date of this administrative regulation shall not be required to comply with the requirements of Section 1(1)(a) of this administrative regulation.

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation establishes the requirements and qualifications for being a teacher of barbering.

(b) The necessity of this administrative regulation: The regulation is necessary to insure that teachers at a barbering school have the appropriate experience and skill to teach barbering to a student.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317.440(1)(c) authorizes the board to promulgate an administrative regulation regarding the qualifications of teachers of barbering.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board and the qualifications of being a teacher of barbering.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment establishes the qualifications to become a teaching assistant and the supervision requirements of students and teaching assistants.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide practical skills before an individual becomes a teacher of barbering.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to promulgate administrative regulations governing new shop as established by KRS 317.440.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board and the qualifications of being a teacher of barbering.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: Approximately 60 licensed teachers of barbering and any applicant to be a teacher or teaching assistant of barbering.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: An applicant must satisfy the examination and supervision requirements prior to obtaining a license to be a teacher of barbering or teacher's assistant of barbering.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): \$0

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Upon demonstrating their qualifications, an applicant will be issued a license.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

- (a) Initially: \$0
(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fee will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Kentucky Board of Barbering licensees.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.440.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? \$0

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer the administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:125 will not create any new revenues for either the agency or State Government.

GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)

201 KAR 14:150. School records.

RELATES TO: KRS 317.410, 317.450, 317.540

STATUTORY AUTHORITY: KRS 317.430, 317.440(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(1)(b) requires the Kentucky Board of Barbering to promulgate administrative regulations to govern quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools. This administrative regulation establishes requirements for school records.

Section 1. A monthly attendance record of the entire enrollment, including full-time and part-time students and instructors, shall be kept by the schools and received at the board office no later than the tenth calendar day of each month.

(1) A barber school shall be held fully responsible for the completeness and accuracy of the attendance record, which shall show the total hours obtained for the previous month and the total accumulated hours to date for all students and instructors.

(2) Only the hours recorded shall be submitted each month. The report shall not be amended without proof of error, and shall be available for inspection.

(3) A copy of the student's daily attendance record for the month of graduation through the date of a student's graduation shall be submitted with the student's certification of hours as part of the application for examination upon completion of the course.

Section 2. A copy of the monthly attendance record, as provided to the board office, shall be posted monthly on a bulletin board in the school so it is available at all times to the students, employees, board members, or agents of the board.

Section 3. (1) Barber schools shall be required to keep a record of a student's daily work, approved and signed by the instructor of each student's practical work, work performed on clinic patrons, and classroom work.

(2) This record shall be available for inspection and shall be included:

- (a) With the student's certification of hours and application for examination, upon completion of the course; or
(b) With the certification of hours:
1. If a student withdraws or is dismissed from school; or
2. Upon the closure of a school.

Section 4. (1) A detailed record shall be kept of all enrollments, withdrawals, dismissals, and graduations.

(2) Certification of hours completed, including a copy of the student's daily attendance record for the month of graduation through the date of a student's graduation, shall be forwarded with all records of a student's daily work, to the office of the board within ten (10) calendar days of a student's withdrawal, dismissal, graduation, or closure of the barber school. Completed course hours provided to the board office shall be accurate and shall be recorded in the student's file.

(3) Completed course hours submitted to the board shall be transferable to another barbering school for no more than five (5) years.

(4) Records filed with the board shall be maintained for five (5) years, then destroyed in accordance with the board's retention schedule on file with the State Archives and Records Commission.

Section 5. (1) All records shall be kept in a lockable file on the premises of the school and shall be available for inspection.

(2) The security of all records shall be the responsibility of the school.

(3) Records shall be locked if not in use or during nonbusiness hours.

Section 6. A school shall immediately produce a copy of any

record maintained under this administrative regulation when requested by the board.

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes what records that a barber school must maintain.

(b) The necessity of this administrative regulation: The regulation is necessary to identify what records are to be maintained by a barber school.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317.440(1)(b) authorizes the Kentucky Board of Barbering to promulgate administrative regulations to govern records required to be maintained by a barber school.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes what records are to be maintained by a barber school.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment clarifies that completed educational hours are transferable and school records are to be immediately produced to the board.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary because the board has been hindered in its investigations when requesting school records.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 317.440(1)(b) authorizes the Kentucky Board of Barbering to promulgate administrative regulations to govern records required to be maintained by a barber school.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the board in having access to school records when necessary and the records are accurate.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Nine (9) barber schools.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Barber schools are not required to satisfy any new requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no new cost associated with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The board will have the accurate

number of educational hours completed by a student at a barber school.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: \$0

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no fees established.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Barbering

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.430, 317.440(1)(b)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. \$0

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The board does not believe that there will be a significant increase in revenue generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The board does not believe that there will be a significant increase in revenue generated.

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? \$0

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The amendment is a recordkeeping regulation and does not generate any revenue.

GENERAL GOVERNMENT CABINET
Board of Barbering
(Amendment)

201 KAR 14:180. License fees, examination fees, renewal fees, and expiration fees.

RELATES TO: KRS 317.410(8), 317.450

STATUTORY AUTHORITY: KRS 317.440(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(2) requires the Board of Barbering to establish fees for licenses within the limits established by KRS 317.450. This administrative regulation establishes fees relating to barbering licenses.

Section 1. Initial licensing fees shall be as follows:

(1) Probationary license: fifty (50) dollars;

(2) Barber license: fifty (50) dollars;

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- (3) Endorsement: \$250;
 - (4) Barber shop license: fifty (50) dollars;
 - (5) Barber school license: \$150;
 - (6) Teacher or teacher assistant of barbering license: \$100;
- and
- (7) Independent contract owner: fifty (50) dollars.

Section 2. Examination fees shall be as follows:

- (1) Probationary examination: \$150;
- (2) Barber examination: \$150; and
- (3) Teacher or teacher assistant of barbering examination: \$150.

Section 3. Renewal fees shall be as follows:

- (1) Probationary licensee renewal: fifty (50) dollars;
- (2) Barber renewal: fifty (50) dollars;
- (3) Teacher or teacher assistant of barbering renewal: fifty (50) dollars;
- (4) Barber shop renewal: fifty (50) dollars;
- (5) Barber school renewal: \$150; and
- (6) Independent contract owner: fifty (50) dollars.

Section 4. (1) The late fee for renewal of a license that has been expired for more than one (1) day~~[thirty-one (31) days]~~ and not more than five (5) years from the expiration date of the last license issued by the board shall be as follows:

- (a) Probationary licensee late fee: twenty-five (25) dollars;
 - (b) Barber late fee: twenty-five (25) dollars;
 - (c) Teacher or teacher assistant of barbering late fee: twenty-five (25) dollars;
 - (d) Barber shop late fee: twenty-five (25) dollars;
 - (e) Barber school late fee: twenty-five (25) dollars; and
 - (f) Independent contract owner: twenty-five (25) dollars.
- (2) The total cost of renewal of a license governed by subsection (1) of this section shall include the renewal fee and the:
- (a) Late fee established by subsection (1) of this section; and
 - (b) Lapse fee defined by KRS 317.410(8).

Section 5. Miscellaneous fees shall be as follows:

- (1) Duplicate license: ten (10) dollars;
- (2) Certification: fifty (50) dollars; and
- (3) Demonstration: \$100.

Section 6. All fees received by the Kentucky Board of Barbering shall be non-refundable.

SONJA MINCH, Administrator

APPROVED BY AGENCY: May 13, 2016

FILED WITH LRC: May 13, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2016, at 10:30 a.m. at 312 Whittington Parkway Suite 110 Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, phone (502) 429-7148, fax (502) 429-4149.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This regulation established the fees to be charged by the board.
 - (b) The necessity of this administrative regulation: The

regulation is necessary to provide notice to applicants and licenses regarding application fees, renewal fees, late fees, and other fees for services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317.440(2) authorizes the Board of Barbering to establish fees for licenses within the limits established by KRS 317.450.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the fees to be assessed for applications, renewals, late filings, and various other services provided by the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment eliminates a thirty (30) day grace period to renew a license.

(b) The necessity of the amendment to this administrative regulation: The delegating statutes do not authorize a thirty (30) day grace period to renew a license. The amendment brings the law into compliance with KRS Chapter 317.450 that became effective on June 24, 2015.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 317.440(2) authorizes the Board of Barbering to establish fees for licenses within the limits established by KRS 317.450.

(d) How the amendment will assist in the effective administration of the statutes: This regulation establishes the fees to be assessed for applications, renewals, late filings, and various other services provided by the board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment will require 2959 licensees, 9 barber schools, and 1145 barber shops to timely renew their respective license.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities will be required to timely renew their license or pay a penalty for a late renewal application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The maximum cost associated to a licensee for a late renewal application is \$25.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment will benefit the license holders by placing them on notice of the consequences of failing to timely renew a license.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

- (a) Initially: \$0
- (b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: \$0

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Fees are only paid for a late renewal application.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be

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impacted by this administrative regulation? Kentucky Board of Barbering

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.440(2)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. \$0

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The board does not believe that there will be a significant increase in revenue generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The board does not believe that there will be a significant increase in revenue generated.

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? \$0

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The amendment will only generate revenue if a licensee fails to timely renew a license. It is impossible for the board to calculate how much the amendment may generate.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(Amendment)

201 KAR 46:020. Fees.

RELATES TO: KRS 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.130, 311B.140, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.120,

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.010 and 311B.050 require the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to regulate medical imaging, radiation therapy, and related occupations. KRS 311B.120 requires the board to promulgate administrative regulations to establish fees and penalties. This administrative regulation establishes fees for the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator.

Section 1. Initial Application and License Fee. A non-refundable initial application and license fee shall be \$100.

Section 2. Renewal License Fee. A non-refundable renewal fee shall be fifty (50) dollars per year.

Section 3. Temporary Application and License Fee. A non-refundable fee for a temporary license shall be \$100.

Section 4. Provisional Training License Fee. A non-refundable fee for a provisional training license for a radiation therapist and a nuclear medicine technologist shall be fifty (50) dollars per twenty-four (24) month training period.

Section 5. Temporary Limited X-ray Machine Operator Application and License Fee. A non-refundable, non-transferrable fee for a license shall be \$100.

Section 6. Duplicate License Fee. A non-refundable fee for a

duplicate license shall be twenty (20) dollars.

Section 7. Reinstatement Fee. A reinstatement fee shall be \$100.

Section 8. Name Change Fee. A non-refundable fee for a new printed license with a name change shall be twenty (20) dollars.

Section 9. Limited X-ray Machine Operator Examination Fee. A non-refundable fee for the limited x-ray machine operator examination shall be \$150.

Section 10. Home Study Course Fee. A non-refundable administrative fee for the independent study course for a limited x-ray machine operator shall be \$500.

Section 11. Insufficient Funds Fee. A fee for returned check or denied online banking (ACH) payment shall be fifty (50) dollars.

Section 12. Written Verification of Qualifications Fee. The fee for completion of written verification documents shall be twenty-five (25) dollars per document.

Section 13. Continuing Education Approval Fee. (1) Individual continuing education program fee shall be ten (10) dollars.

(2) Annual sponsoring institution fee shall be \$100.

Section 14. Late Fee. (1) An individual who fails to renew a license by the expiration date shall be assessed a late fee according to the following schedule based upon the expiration date:

(a) One (1) to five (5) days late – no penalty;

(b) Six (6) to thirty (30) days late – twenty (20) dollars per calendar day; and

(c) More than thirty (30) days late – \$750 flat fee.

(2) The late fee, if applicable, shall be in addition to the renewal fee required by 201 KAR 46:040, Section 6, and 201 KAR 46:081, Section 12, and the reinstatement fee required by 201 KAR 46:040, Section 7, and 201 KAR 46:081, Section 13.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 12, 2016 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016, at 1:00 p.m., in the office of the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees to be assessed to licensees and applicants.

(b) The necessity of this administrative regulation: The

necessity of this regulation is to advise the public, licensee and applicant of fees to be assessed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations establishing fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the fees to assessed from applications, renewals, late filings, reinstatement, name change, and various other programs and services provided by the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment establishes late fees for untimely renewal applications.

(b) The necessity of the amendment to this administrative regulation: This regulation is necessary to establish a late fee schedule for untimely renewal applications.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the establishment of fees.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will notify the public of the late fee schedule for untimely renewal applications.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 8,100 licensees.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The state health care organization, licensees and applicants will have to demonstrate compliance with the requirements set forth in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment to the administrative regulation establishes new fees and increases other fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulations place applicants and licensees on clear notice of the fees associated with licensure and procedures.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional Cost will be incurred as a result of amending this administrative regulation.

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees established by this regulation and paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is required to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment to the administrative regulation establishes new fees and increases other fees.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government

(including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.: KRS 311B.010 to 311B.190

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be \$81,260 additional revenue dollars for the Board of Medical Imaging and Radiation Therapy. Some of these revenues will be used to cover personnel needs within the board office. Some of these revenues will be passed to other government agencies who will provide support to the board. There will be approximately \$80,000 dollars in additional expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Approximately \$236,000 will be required for year one.

(d) How much will it cost to administer this program for subsequent years? Approximate cost will be \$400,000. This will allow the board to hire a second permanent position in the office to ensure continuity of operations, contract with other state agencies to provide licensee inspections, allow follow-up inspections by board representatives for sites that have failed to meet standards

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(Amendment)

201 KAR 46:070. Violations and enforcement.

RELATES TO: KRS 311B.100, 311B.120, 311B.150, 311B.160, 311B.170, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.120, 311B.180, 311B.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.120 and 311B.190 require the board to promulgate administrative regulations to establish appropriate fees and penalties for violations. KRS 311B.180 requires the board to assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license. This administrative regulation establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator and penalties for violation of licensure requirements.

Section 1. Denial, Revocation, and Suspension of Licenses. (1) The board may deny, revoke, or suspend the license of a licensee in accordance with KRS 311B.160.

(2) A licensee shall comply with an order of the board.

(3) An order of the board in subsection (2) of this section shall include items such as discovery orders, requests for information, subpoenas, requests for attendance before the board, and responses to complaints.

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Section 2. Hearings. (1) The board shall notify the licensee in accordance with KRS 311B.170(1) and (2).

(2) A licensee to whom a notice or order is directed shall comply with KRS 311B.170(3) to avoid license revocation.

(3) The board shall issue the licensee a notice of proposed action in accordance with 201 KAR 46:090.

(4) A licensee may request a conference and appeal the board's action in accordance with KRS 311B.170(5) and 201 KAR 46:090.

Section 3. Penalties. (1) The board shall assess civil penalties in accordance with KRS 311B.180 and 311B.190 against an individual~~[or licensee]~~ who performs diagnostic or therapeutic procedures without valid licensure.

~~(2) An individual who performs a diagnostic or therapeutic procedure shall be assessed a civil penalty of fifty (50) dollars per day that the procedure occurs.~~ Civil penalties shall be assessed against individuals who perform diagnostic or therapeutic procedures without valid licensure as follows:

~~(a) Failure to apply for initial licensure by an individual who is fully qualified for licensure at the time the violation is discovered, or failure to apply for renewal by an individual who would be eligible for renewal of a license, but who would not currently qualify due to insufficient continuing education at the time the violation is discovered shall be assessed a civil penalty of twenty-five (25) dollars per day until the application has been approved.~~

~~(b) Failure of a licensee to renew the license by the expiration date shall be assessed a late fee according to the following schedule based upon the expiration date:~~

~~1. One (1) to five (5) days late – no penalty;~~

~~2. Six (6) to fifteen (15) days late – Ten (10) dollars per calendar day; or~~

~~3. Sixteen (16) to thirty (30) days late – Twenty (20) dollars per calendar day.~~

~~(c) A licensee who has not renewed after thirty (30) days shall:~~

~~1. Pay a civil penalty of \$750;~~

~~2. Submit an initial application for license, as incorporated by reference in 201 KAR 46:040; and~~

~~3. Pay the new application fee, as established in 201 KAR 46:020.~~

~~(d) Performance of a diagnostic or therapeutic procedure requiring a license by an individual who is not qualified for licensure at the time the violation is discovered shall be assessed a civil penalty of \$100 per day until the application has been approved.~~

(3) Civil penalties double the amount assessed against ~~an~~[the licensee ~~or]~~ individual shall be assessed against the employer of the individual without a valid license pursuant to KRS 311B.180 and subsection (3) of this section.

(4) Any person assessed a civil penalty may request a hearing as specified in Section 2 of this administrative regulation and 201 KAR 46:090.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 12, 2016 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016, at 1:00 p.m., in the office of the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on June 30, 2016. Send written notification of intent to attend the public hearing or submit written comments on the proposed

administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the process for the board imposing a civil monetary penalty when an individual performs a diagnostic or therapeutic procedure without a license; and the administrative hearing process.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the process for the board to impose a civil penalty; and the administrative hearing process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to authority delegated in KRS 311B.050(2) and KRS 311B.050(7).

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation establishes the process for the board handling complaints and due process to licensees who are subjected to disciplinary action; and imposing a civil monetary penalty.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: The amendment to the regulation will remove different amounts assessed to individuals and impose a flat \$50 civil monetary penalty for each day; and removes the late fee provision.

(b) The necessity of the amendment to this administrative regulation: The amendment clarifies the question concerning late fees and imposes the same civil penalty for performing a diagnostic and therapeutic procedure without a license.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for issuing a civil monetary penalty.

(d) How the amendment will assist in the effective administration of the statutes: This regulation establishes guidelines for issuing a civil monetary penalty against someone who is not licensed to perform diagnostic and therapeutic procedures and establish a uniform amount.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will impact the approximate 8,100 individuals currently licensed by the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: This regulation will establish the complaint and disciplinary hearing processes that have not been promulgated by the board.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities identified in question (3) are provided an opportunity to respond to any complaint filed and due process if evidence is found to support a violation of state law.

(b) In complying with this administrative regulation or amendment, how much will it cost for each of the entities: No new costs are associated with the changes to the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with the regulation, the individuals identified in question (3) will be provided with due process in the complaint process.

(5) Estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) The source of funding for the implementation and enforcement of this administrative regulation: The Kentucky Board of Medical Imaging and Radiation Therapy is funded from fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish or increase any fees or directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Board of Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that authorizes the action taken by the administrative regulation: 311B.050(2) and (7), KRS 311B.160, and KRS 311B.170.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? N/A.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A.

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-)
Expenditures (+/-)
Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees.

RELATES TO: KRS 150.010, 150.175, 150.360, 150.390, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.105, 150.170(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.105 authorizes the commissioner with the approval of the commission to destroy or bring under control wildlife causing damage. KRS 150.170(7) authorizes landowners, their spouses or dependent children, or a designee to destroy wildlife causing damage. It also authorizes the department to promulgate administrative regulations that establish procedures for the designee appointment process. This administrative regulation establishes the requirements for the

issuance of deer control tags and deer destruction permits and establishes the requirements for the landowner designee appointment process.

Section 1. Definitions. (1) "Damage" means:

(a) The existence of a browse line caused by deer; or

(b) Damage to more than thirty-five (35) percent of native plant species preferred by deer.

(2) "Deer control tag" means a tag issued by the department that authorizes a hunter to take antlerless deer during an open deer season pursuant to 301 KAR 2:172.

(3) "Deer destruction permit" means written authorization from the department to take deer outside the hunting season framework established in 301 KAR 2:172.

(4) "Deer food plot" means a crop or cultivated plants grown to attract and feed deer.

(5) "Department representative" means a department employee who is qualified and authorized by the commissioner to assess deer damage.

(6) "Designee" means a person who has been designated by a landowner to remove wildlife causing damage on the landowner's property.

(7) "Landowner" means the person who has title to a particular property.

Section 2. Qualifying for Deer Control Tags. (1) A landowner with fewer than 1,000 contiguous acres shall qualify for deer control tags if:

(a) Deer hunting occurred on the property during the previous deer season;

(b) Standard deterrent measures recommended by a department representative have proven ineffective or are impractical; and

(c) A department representative certifies deer damage to crops, gardens, property, or wildlife habitat.

(2) A landowner with 1,000 contiguous acres or more shall qualify for deer control tags if:

(a) Deer hunting occurred on the property during the previous deer season;

(b) Deer seasons and bag limits as established in 301 KAR 2:172 are determined by a department representative to be inadequate to control deer populations on the property; and

(c) The landowner agrees to:

1. Follow the deer management practices recommended by the department; and

2. Supply the department with weight, age, and condition data of deer taken from the property.

(3) A department representative shall make an on-site inspection of each property for which a request for deer control tags has been made, unless the property:

(a) Has been previously inspected by the department and the landowner affirms that deer damage still exists; or

(b) Is immediately adjacent to property assessed by a department representative as having severe deer damage.

(4) A landowner whose property is immediately adjacent to property assessed by a department representative as having severe deer damage shall be issued deer control tags upon request of the landowner.

(5) The department shall not issue deer control tags to a landowner whose only damage is to a deer food plot.

Section 3. Applying for Deer Control Tags. (1) A landowner shall request deer control tags by contacting the department through:

(a) A conservation officer; or

(b) The private lands biologist for the county in which the property is located.

(2) If required by Section 2 of this administrative regulation, a department representative shall visit the property and assess the nature and extent of deer damage.

(3) A request for an assessment shall be made on or before September 30 to be eligible for current year deer control tags.

(4) A request for an assessment made after September 30

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shall be considered for the following year.

Section 4. Number of Tags Issued. (1) The department shall determine the number of deer control tags to be issued for each property based on the recommendation of the department representative.

(2) Except as established in Section 2(2) or (4) of this administrative regulation, the department shall not issue a deer control tag if:

- (a) The county deer season is adequate to achieve the desired reduction in deer numbers; or
(b) Crop or environmental damage is not present.

Section 5. Transfer of Deer Control Tags. (1) Deer control tags shall be issued in the landowner's name.

(2) A landowner:

- (a) May transfer a deer control tag to another person;
(b) Shall not issue more than five (5) deer control tags to an individual; and
(c) Shall require hunters to sign a deer control tag at the time of transfer.

Section 6. Use of Deer Control Tags. (1) A deer control tag shall not be valid except on the property for which it was issued.

(2) A deer control tag shall expire after the license year for which it was issued.

(3) A person who uses a deer control tag:

- (a) Shall have in possession:
1. A valid deer control tag; and
2. A valid hunting license and current deer permit, unless exempt from license or permit requirements pursuant to KRS 150.170;
(b) May use deer control tags during archery, crossbow, modern gun, or muzzle-loader seasons to take antlerless deer;
(c) Shall not take more than five (5) deer per license year with deer control tags; and
(d) Shall abide by the provisions of 301 KAR 2:172, except that:
1. Antlered deer shall not be taken; and
2. The deer control tag shall remain attached to the carcass until final processing or disposal.
(4) Deer taken with a deer control tag shall not count toward the annual limit as established in 301 KAR 2:172.

Section 7. Deer Destruction Permits. (1) The department may issue a deer destruction permit:

- (a) To a person authorized by the commissioner to remove deer that are or may become a public safety or environmental threat or that have entered a permitted captive cervid facility;
(b) To a landowner or the designee:
1. Who continues to experience damage after being issued deer control tags; or
2. Whose property cannot be hunted legally and deer are posing a public safety or environmental threat; or
(c) To a captive cervid facility permit holder or applicant:
1. Whose fence meets the fencing and holding requirements in 301 KAR 2:083; and
2. Who has attempted to remove wild deer using nonlethal methods or statewide deer seasons as established in 301 KAR 2:172.
(2) A deer destruction permit shall specify:
(a) The number and sex of deer to be destroyed;
(b) The method of destruction;
(c) The name of the person who will destroy the deer; and
(d) The dates during which the destruction will take place.
(3) A deer destruction permit shall not be issued without the recommendation of a department representative and the approval of the commissioner.
(4) A person who uses a deer destruction permit shall:
(a) Attach a disposal permit provided by the department to each carcass;
(b) Not remove the disposal permit until the carcass is processed or disposed of; and

(c) If an antlered deer was taken, relinquish the antlers to the department.

(5) A deer destruction permit shall not be used except as specified on the permit.

(6) A person who receives a deer destruction permit shall:
(a) Complete a Wildlife Destruction Permit Reporting Form issued by the department; and

(b) Submit the completed form to the department at # 1 Sportsman's Lane, Frankfort, Kentucky 40601, ATTN: Wildlife Destruction Permit Report, within fourteen (14) days after the expiration date designated on the destruction permit.

Section 8. Designee Procedures and Requirements. (1) A landowner may appoint a designee to kill wildlife causing damage on the landowner's land.

(2) The landowner and designee shall complete and submit to the department a Wildlife Damage Designee Form.

(3) The department shall have thirty (30) days upon receipt of the Wildlife Damage Designee Form to approve or deny a designee.

Section 9. Denial or Revocation or Deer Control Tags or Destruction Permits and Appeal Procedures. (1) The department shall revoke a deer control tag or destruction permit or deny a future tag or permit to a person who fails to comply with the requirements of this administrative regulation.

(2) An individual whose request for a permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Wildlife Damage Designee Form", 2015 edition; and
(b) "Wildlife Destruction Permit Reporting Form", 2016 edition[; is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern time.

KAREN WALDROP, Deputy Commissioner
For GREGORY K. JOHNSON, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: May 9, 2016
FILED WITH LRC: May 11, 2016 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2016 at 1:00 P.M. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

- (1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for the

issuance of deer control tags and deer destruction permits, and establishes the requirements for the landowner designee appointment process for the removal of wildlife causing damage.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to allow for increased harvest during the season in localized areas, for out-of-season removal of deer where necessary, and to establish the process for appointing landowner designees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.105 authorizes the commissioner with the approval of the commission to destroy or bring under control wildlife causing damage. KRS 150.170(7) authorizes landowners, their spouses or dependent children, or an appointed designee to destroy wildlife causing damage. It also authorizes the department to promulgate administrative regulations that establish procedures for the landowner designee process.

(d) How will this administrative regulation assist in the effective administration of the statutes: This regulation assists in the administration of the statutes by establishing requirements for controlling deer populations on certain tracts of land both within and outside the regular hunting seasons and defines the process for a landowner to appoint a designee to destroy or control wildlife causing damage.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: The amendment requires landowners to file a report on the number of animals removed under the destruction permit.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to accurately record the number of animals removed under this permit authorization.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected: Anyone experiencing damage due to deer will potentially be affected by this regulation. In 2015, deer destruction permits were issued to 60 individuals.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Landowners wishing to remove deer under the destruction permit authorization will be required to submit a report on the number of deer harvested under this authorization.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be a cost associated with the reporting requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be no benefits accrued to the entities identified in question (3) as a result of this amendment.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: This administrative regulation amendment will result in no initial change in cost to the Kentucky Department of Fish and Wildlife Resources to administer.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or

funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase any fees or funding to implement this administrative regulation as amended.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: No new fees will be established.

(9) TIERING: Is tiering applied? Tiering was not used because all landowners must follow the same requirements when attempting to control deer on their property.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150.105 and 150.170(7).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:221. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Dark goose" means a Canada goose, white-fronted goose, or brant.

(2) "Light Goose" means a snow goose or Ross's goose.

(3) "Light Goose Conservation Order" is defined by 50 C.F.R.

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21.60

(4) "Waterfowl" is defined by KRS 150.010(40).

Section 2. (1) Except as established in 301 KAR 2:222, 2:225, or 2:226, a person shall not hunt waterfowl except during the seasons established in this administrative regulation.

(2) Hunting zones, special hunt areas and reporting areas are established in 301 KAR 2:224.

Section 3. Season dates. (1) ~~The~~ duck, coot, and merganser[~~The~~] season shall:

(a) Begin on Thanksgiving Day for four (4) consecutive days; and

(b) Be for fifty-six (56) consecutive days ending on the last Sunday in January of the following year.

(2) Canada goose.

(a) In the Eastern, Pennyrile, and Western Goose Zones, the season shall ~~be from~~~~begin on~~ Thanksgiving Day ~~through February 15~~~~and continue until January 31~~.

(b) In the Northeast Goose Zone, the season shall ~~be from~~~~begin on~~ the third Saturday in December ~~through~~~~and continue until~~ January 31.

(3) ~~The~~ white-fronted goose and brant[~~The~~] season shall ~~be from~~~~begin on~~ Thanksgiving Day ~~through February 15~~~~and continue until January 31~~.

(4) ~~The~~ light goose[~~The~~] season shall ~~be from~~~~begin on~~ Thanksgiving Day ~~through February 15~~~~and continue until January 31~~.

(5) ~~The~~ Light Goose Conservation Order ~~season shall be from February 16 through March 31~~.~~(a) In the Western Duck Zone, the season shall be from February 1 through March 31, except:~~

1. ~~The season shall be closed during the first full weekend in February; and~~

2. ~~Youth hunters may hunt during the first full weekend in February pursuant to 301 KAR 2:226.~~

~~(b) In the Eastern Duck Zone, the season shall be from February 1 through March 31.]~~

(6) A person shall not hunt a light or dark goose in:

(a) The areas of Laurel River Lake as posted by sign; or

(b) Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, US 60, and Highway 826.

Section 4. In the Ballard Zone that is established in 301 KAR 2:224:

(1) A person hunting waterfowl shall:

(a) Hunt from a blind unless hunting in flooded, standing timber;

(b) Not hunt from or establish a blind:

1. Within 100 yards of another blind; or

2. Within fifty (50) yards of a property line; and

(c) Not possess more than one (1) shotgun while in a blind.

(2) The requirements of subsection (1) of this section shall not apply if the Light Goose Conservation Order, as established in 301 KAR 2:221, is the only waterfowl season open, excluding falconry seasons.

Section 5. Bag and Possession Limits. (1) Ducks. The daily limit shall be six (6), which shall not include more than:

(a) Four (4) mallards;

(b) Two (2) hen mallards;

(c) Three (3) wood ducks;

(d) One (1) black duck;

(e) Two (2) redheads;

(f) Two (2) pintails;

(g) Three (3) scaup;

(h) One (1) mottled duck; or

(i) Two (2) canvasback.

(2) Coot. The daily limit shall be fifteen (15).

(3) Merganser. The daily limit shall be five (5), which shall not include more than two (2) hooded mergansers.

(4) Dark goose. The daily limit shall be five (5), which shall not include more than:

(a) Three (3) Canada geese;

(b) Two (2) white-fronted geese; or

(c) One (1) brant.

(5) Light goose. The daily limit shall be twenty (20), except that there shall not be a limit during the Light Goose Conservation Order season.

(6) The possession limit shall be triple the daily limit, except that there shall not be a light goose possession limit.

Section 6. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) Sunset, except as established in 301 KAR 2:222; or

(2) One-half (1/2) hour after sunset if hunting light goose during the Light Goose Conservation Order season.

Section 7. Falconry Waterfowl Season and Limits. (1) The light goose season shall be ~~from Thanksgiving Day~~~~November 5~~ through ~~February 15~~~~January 31~~.

(2) ~~The~~ Light Goose Conservation Order season ~~shall be from February 16 through March 31~~.

~~[(a) In the Western Duck Zone, the season shall be from February 1 through March 31, except:~~

1. ~~The falconry season shall be closed during the first full weekend in February; and~~

2. ~~Youth waterfowl hunters may hunt during the first full weekend in February pursuant to 301 KAR 2:226.~~

~~(b) In the remainder of the state, the season shall be from February 1 through March 31.]~~

(3) The season for all other waterfowl shall be from ~~Thanksgiving Day~~~~November 5~~ through ~~February 15~~~~January 31~~.

(4) The daily limit shall be three (3) waterfowl, except that there shall not be a limit on light goose during the Light Goose Conservation Order season.

(5) The possession limit shall be nine (9) waterfowl, except that there shall not be a possession limit on light goose during the Light Goose Conservation Order season.

Section 8. Permit for the Light Goose Conservation Order season. (1) A person hunting light goose during the Light Goose Conservation Order season shall first obtain a free permit by completing the online Snow Goose Conservation Order Permit process on the department's Web site at fw.ky.gov.

(2) A person hunting light goose during the Light Goose Conservation Order season shall submit a Snow Goose Conservation Order Permit Survey to the department by April 10.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Snow Goose Conservation Order Permit", January 2014; and

(b) "Snow Goose Conservation Order Permit Survey", January 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: May 3, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2016, at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing,

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you may submit written comments on the proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2016-2017 waterfowl hunting seasons in accordance with the USFWS.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing hunting season and bag limit requirements and providing reasonable hunting opportunity consistent with state, national, and international management requirements and goals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment will add two additional weeks of Canada goose, white-fronted goose, brant and light goose season in February. It adjusts the falconry season to start on Thanksgiving Day so that Canada geese are not exposed to more than 107 days of regular hunting.

(b) The necessity of the amendment to this administrative regulation: Waterfowl seasons and limits are set on an annual basis following the establishment of federal frameworks by the U.S. Fish and Wildlife Service each year. It is the Department's responsibility to allow quality hunting opportunity within these federal frameworks. The increase in the daily hunting period will provide additional opportunity for local waterfowl hunters.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The current changes in season dates and/or bag limits will be published in the fall waterfowl hunting guide and on the department's website. Hunters will need to follow all applicable amendments to the hunting season and bag limits.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in

question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be an increased opportunity to hunt waterfowl in the state.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will not be an additional cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase any fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: This administrative regulation does not establish any fees directly or increase any fees indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Wildlife Division and Law Enforcement Division.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? No new costs will be incurred in the administration of this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred in the administration of this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird

Permits.

2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:222. Waterfowl hunting requirements on public lands.

RELATES TO: KRS 150.010(40), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Blind" means a:

- (a) Concealed enclosure;
- (b) Pit; or
- (c) Boat.

(2) "Department blind" means a permanently fixed blind structure built by the department.

(3) "Hunt site" means a specific location where waterfowl hunting is allowed, as approved by the department or the U.S. Army Corps of Engineers.

(4) "Layout blind" means a portable blind that when fully deployed allows one (1) person to be concealed above the surface of the ground.

(5) "Party" means:

- (a) A person hunting alone; or
- (b) Two (2) to four (4) people who share a department blind or hunt site.

(6) "Permanent blind" means a blind left in place by a waterfowl hunter longer than twenty-four (24) hours.

(7) "Regular waterfowl season" means the open waterfowl season that does not include the Light Goose Conservation Order or the September wood duck, teal, and Canada goose seasons as established in 301 KAR 2:221 and 2:225.

(8) "Wildlife Management Area" or "WMA" means a tract of land:

- (a) Controlled by the department through ownership, lease, license, or cooperative agreement; and
- (b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:

- (1) Longer than three and one-half (3 1/2) inches; or
- (2) Containing:
 - (a) Lead shot;
 - (b) Shot not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or
 - (c) Shot larger than size "T".

Section 3. (1) Except as established in this section or in Section 4 of this administrative regulation, on a Wildlife Management Area:

- (a) A person hunting waterfowl shall not:
 - 1. Establish or hunt from a permanent waterfowl blind;
 - 2. Hunt within 200 yards of:
 - a. Another occupied hunt site;
 - b. Another legal waterfowl hunting party; or
 - c. An area closed to waterfowl hunting;
 - (b) A person shall not hunt in a designated recreation area or access point;
 - (c) More than four (4) persons shall not occupy a waterfowl blind or hunt site; and
 - (d) A hunter shall remove decoys and personal items daily, except that a hunter drawn for a multiday hunt may choose to leave decoys in place for the duration of the hunt.

(2) In order to establish or use a permanent waterfowl blind or hunt site on Lake Barkley, Barren River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake, Paintsville Lake, Rough River Lake, Sloughs, or Doug Travis Wildlife Management Areas, a person:

- (a) Shall first obtain a waterfowl blind permit from the U.S. Army Corps of Engineers or the department;
 - (b) May designate one (1) other person as a partner; and
 - (c) Shall not hold more than one (1) permit per area.
- (3) A person who participates in a drawing for a hunt site permit shall:
- (a) Be at least eighteen (18) years of age; and
 - (b) Possess:
 - 1. A valid Kentucky hunting license;
 - 2. A Kentucky waterfowl permit; and
 - 3. A federal duck stamp.
 - (4) The holder of a hunt site permit shall:
 - (a) Construct or establish the blind or hunt site before November 20 or forfeit the permit;
 - (b) Not lock a waterfowl blind; and
 - (c) Remove the blind and blind materials within thirty (30) days after the close of the regular waterfowl season or be ineligible for a permit the following year, unless an extension of time is granted by the department based on weather or water level conflicts.

(5) A permanent blind, department blind, or blind site not occupied by the permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.

(6) A waterfowl blind restriction established in this section shall not apply to a falconer if a gun or archery season is not open.

Section 4. Wildlife Management Area Requirements. (1) The regular waterfowl season provisions shall apply, as established in 301 KAR 2:221, except as established in this section.

(2) The provisions of this section shall not apply to a waterfowl hunting season that opens prior to October 15, as established in 301 KAR 2:225.

- (3) A person shall not:
 - (a) Hunt on an area marked by a sign as closed to hunting;
 - (b) Enter an area marked by signs as closed to public access;

or

- (c) Hunt a species on an area marked by signs as closed to

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hunting for that species.

(4) On Wildlife Management Areas in Ballard County:

(a) The shotgun shell possession limit shall be fifteen (15), except that the shotgun shell possession limit shall be twenty-five (25) if:

1. The daily bag limit for ducks is greater than three (3); and
2. The daily bag limit for Canada goose is greater than or equal to two (2); and

(b) At least one (1) person in a waterfowl blind shall be eighteen (18) years of age or older if hunting in a department waterfowl blind or hunt site.

(5) At Ballard WMA:

(a) The duck, coot, merganser, and goose season shall be the ~~first~~^{second} Wednesday in December through the last Sunday in January;

(b) Youth waterfowl season shall be the first full weekend in February;

(c) A person hunting waterfowl shall not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day; and

(d) A person hunting waterfowl shall:

1. Apply for the waterfowl quota hunt as established in Section 5 of this administrative regulation;

2. Not hunt waterfowl on the Ohio River from fifty (50) yards upstream of Dam 53 to fifty (50) yards downstream from the southern border of Ballard Wildlife Management Area from October 15 through March 15; and

3. Exit the area by 2 p.m. during the regular waterfowl season, except as authorized by the department.

(6) At Boatwright WMA, including the Olmsted, Peal, and Swan Lake units:

(a) A party shall:

1. Not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day;

2. Obtain a daily check-in card by 8 a.m. before entering the area from the ~~first~~^{second} Wednesday in December through the last Sunday in January; and

3. Check out the same day by:

a. Visiting the designated Check station prior to 8 a.m.; or

b. Depositing the check-in card at a department-designated drop point after 8 a.m.;

(b) Duck season shall be open one-half (1/2) hour before sunrise to sunset beginning Thanksgiving Day for four (4) consecutive days on areas of Boatwright WMA that are open to hunting;

(c) A department blind or hunt site shall be assigned through a daily drawing through the last Sunday in January;

(d) A department blind or hunt site shall be offered to another hunter on a first-come, first-served basis, if the blind or hunt site has not been assigned during the daily drawing;

(e) Waterfowl hunters shall exit the area by 2 p.m. during the regular waterfowl season;

(f) A boat blind shall not be permitted in flooded timber, except:

1. During periods of flood if no other access is possible; or

2. A mobility-impaired hunter may hunt from a boat; and

(g) A party shall only hunt waterfowl:

1. From a department blind; or

2. From layout blinds set so that all layout blinds in the party lie within a twenty-five (25) foot radius from the center of the party, and within 200 yards of a hunt site [~~in December and January~~] during the regular waterfowl season.

(7) On the Peal unit of Boatwright WMA:

(a) More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;

(b) More than four (4) parties shall not hunt at the same time on Fish Lake;

(c) More than three (3) parties shall not hunt at the same time on First Lake or Second Lake; and

(d) A party shall not hunt waterfowl except within twenty-five (25) feet of a hunt site during the regular waterfowl season~~[December and January]~~.

(8) On the Swan Lake Unit of Boatwright WMA:

(a) A person shall not hunt waterfowl from Thanksgiving Day through the ~~first~~^{second} Tuesday in December;

(b) The area open to hunting during the regular waterfowl season shall be open for the Light Goose Conservation Order season as established in 301 KAR 2:221; and

(c) Blind restrictions shall not apply to the Light Goose Conservation Order season.

(9) Lake Barkley WMA.

(a) A permanent blind shall only be established within ten (10) yards of a blind site.

(b) Waterfowl refuge areas shall be:

1. The area west of the Cumberland River channel, as marked by buoys, between river mile fifty-one (51), at Hayes Landing Light, south to the Tennessee Valley Authority's power transmission lines at river mile fifty-five and five-tenths (55.5) shall be closed from November 1 through February 15; and

2. The area within Honker Bay and Fulton Bay, as marked by buoys and signs, which shall be closed from November 1 through March 15.

(c) A person shall not hunt from October 15 through March 15:

1. On Duck Island; or

2. Within 200 yards of Duck Island.

(10) Barren River Lake WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(11) Big Rivers WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(12) Cedar Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(13) Miller Welch-Central Kentucky WMA. A person shall not hunt waterfowl from October 15 through January 14.

(14) Lake Cumberland WMA. The following sections shall be closed to the public from October 15 through March 15:

(a) The Wesley Bend area, bounded by Fishing Creek, Beech Grove Road and Fishing Creek Road; and

(b) The Yellowhole area, bounded by Fishing Creek Road and Hickory Nut Road.

(15) Dix River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(16) Doug Travis WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.

(d) On Black Lake, Fish Lake, Forked Lake, Indian Camp Lake, Number Four Lake, Town Creek Moist Soil Unit, and Upper Goose Lake, all waterfowl hunting after November 1:

1. Shall be from hunt sites assigned by a random preseason drawing; and

2. Shall be within ten (10) yards of a hunt site, including periods of Mississippi River flooding.

(17) Grayson Lake WMA. A person shall not hunt waterfowl:

(a) Within the no-wake zone at the dam site marina;

(b) From the shore of Camp Webb;

(c) On Deer Creek Fork; or

(d) Within three-quarters (3/4) of a mile from the dam.

(18) Green River Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(19) Kaler Bottoms WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(20) Kentucky River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise

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until 2 p.m.

- (b) A person shall not enter a hunting area prior to 4 a.m. daily.
(21) Land Between the Lakes National Recreation Area.

(a) The following portions shall be closed to the public from November 1 through March 15:

1. Long Creek Pond;
2. The eastern one-third (1/3) of Smith Bay, as marked by buoys; and
3. The eastern two-thirds (2/3) of Duncan Bay, as marked by buoys;

- (b) The following portions shall be closed to waterfowl hunting:
1. The Environmental Education Center; and
 2. Energy Lake.

(c) A person shall possess an annual Land Between the Lakes Hunting Permit if hunting waterfowl:

1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or
2. From a boat on a flooded portion of Land Between the Lakes when the lake level is above elevation 359.

(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

(e) A person shall not establish or use a permanent blind:

1. On an inland area; or
2. Along the Kentucky Lake shoreline of Land Between the Lakes.

(f) A person hunting waterfowl shall remove decoys and personal items daily.

(22) Obion Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

- (b) A person shall not enter a hunting area prior to 4 a.m. daily.
(23) Ohio River Islands WMA.

(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to the power line crossing at approximately river mile 911.5.

(b) Stewart Island shall be closed to public access from October 15 through March 15.

(c) Shooting hours shall be one-half (1/2) hours before sunrise until 2 p.m.

- (d) A person shall not enter a hunting area prior to 4 a.m. daily.
(24) Peabody WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) The following areas, as posted by signs, shall be closed to the public from October 15 through March 15:

1. The Sinclair Mine area, bounded by Hwy 176, the haul road, and Goose Lake Road; and
2. The Ken area, bounded by Wysox Road, H2 Road, H1 Road, and H6 Road.

(25) Pioneer Weapons WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(26) Robinson Forest WMA. The main block of the WMA shall be closed to waterfowl hunting.

(27) Sloughs WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall exit the area by 2 p.m. during the regular waterfowl season.

(d) On the Jenny Hole-Highlands Creek and Grassy Pond Powell's Lake units, a person hunting waterfowl shall:

1. Hunt:

- a. From a department blind;
- b. Within twenty-five (25) yards of a hunt site; or
- c. No closer than 200 yards of another hunting party; and

2. Remove decoys and personal items from the area on a daily basis.

(e) If the Ohio River reaches a level that requires boat access,

a waterfowl hunter:

1. May hunt from a boat without regard to department blinds; and

2. Shall not hunt closer than 200 yards from another boat.

(f) If hunting waterfowl on the Crenshaw and Duncan Tracts of the Sauerheber Unit:

1. A person shall not hunt on a Tuesday or Wednesday;

2. A person shall hunt from a blind assigned by the department through a drawing as established in Section 5 of this administrative regulation;

3.[2.] A person may occupy a permitted blind if not claimed by the permittee within one (1) hour before sunrise;

4.[3.] A person shall not possess more than fifteen (15) shotgun shells, except that the shotgun shell possession limit shall be twenty-five (25) if:

a. The daily bag limit for ducks is greater than three (3); and

b. The daily bag limit for Canada goose is greater than or equal to two (2);

5.[4.] If under eighteen (18) years of age, a person shall be accompanied by an adult; and

6.[5.] The waterfowl blind for a mobility-impaired person shall be open to the public if the permit holder or another mobility-impaired person has not claimed the blind on that day by one (1) hour before sunrise.

(g) The Crenshaw and Duncan II tracts of the Sauerheber Unit shall be closed to hunting except for:

1. Waterfowl from November 1 through March 15; and

2. The modern gun deer season.

(h) The remainder of the Sauerheber Unit shall be closed to the public from November 1 through March 15.

(i) A hunter drawn to hunt Sloughs WMA through a preseason draw shall submit a completed Sloughs WMA Waterfowl Hunter Survey Report at the conclusion of the hunt or shall be ineligible to participate in the waterfowl blind or quota draw the following year.

(28) South Shore WMA.

(a) The WMA shall be closed to hunting from November 15 through January 15, except for waterfowl and dove hunting.

(b) A hunter shall use a department blind.

(c) A department blind shall be available daily on a first-come, first-served basis.

(29) Taylorsville Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(30) Yatesville Lake WMA. The following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:

(a) The Greenbrier Creek embayment; and

(b) The lake area north from the mouth of the Greenbrier Creek embayment to the dam, including the island.

(31) Yellowbank WMA. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(32) J.C. Williams WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

Section 5. Ballard WMA and Sloughs WMA. (1) A person applying to hunt waterfowl on Ballard WMA or the Sauerheber Unit of Sloughs WMA shall:

(a) Apply by:

1. Calling 1-877-598-2401 and completing the telephone application process; or

2. Completing the online Ballard or Sloughs Waterfowl Quota Hunt Form process on the department's Web site at fw.ky.gov;

(b) Apply from September 1 through September 30;

(c) Pay a three (3) dollar application fee for each application; and

(d) Not apply more than one (1) time for each hunt.

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(2) A person drawn to hunt may bring up to three (3) additional hunters.

(3) A person shall be declared ineligible to hunt in department waterfowl quota hunts during the remaining portion of the waterfowl season and declared ineligible to apply for any department quota hunt the following year if the hunter violates state or federal regulations while waterfowl hunting on WMAs that have a preseason or daily drawing.

Section 6. State Parks. (1) Waterfowl hunting shall be prohibited, except there shall be an open waterfowl hunt December 13 through January 31 on designated areas of state parks at:

- (a) Barren River;
- (b) Grayson Lake;
- (c) Greenbo Lake;
- (d) Lake Barkley;
- (e) Lincoln Homestead;
- (f) Nolin Lake;
- (g) Paintsville Lake;
- (h) Pennyryle Lake;
- (i) Rough River Lake; and
- (j) Yatesville Lake.

(2) Hunters shall check in each day at the front desk of the state park or a designated check-in location on days that the park office is not open.

(3) During check-in hunters shall be provided a map showing designated areas of the park that are open to waterfowl hunting.

(4) Hunters shall check out each day at the front desk of the state park or a designated check-out location on days that the park office is not open.

Section 7. Youth-Mentor and Mobility-Impaired Waterfowl Hunts. (1) There shall be youth-mentor waterfowl hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries each Saturday and Sunday in January.

(2) There shall be a mobility-impaired waterfowl hunt at Minor Clark Fish Hatchery that is held concurrently with each youth-mentor hunt.

(3) A youth or mobility-impaired person shall register in advance and carry a department provided postcard notification on the day of the hunt.

(4) A mobility-impaired person shall also submit a mobility-impaired access permit pursuant to 301 KAR 3:026.

(5) Each youth shall be accompanied by an adult who is eighteen (18) years or older.

(6) Each youth shall not be accompanied by more than one (1) adult.

(7) One (1) adult may accompany two (2) youths.

(8) A mobility-impaired hunter may be accompanied by no more than one (1) assistant who may also hunt.

(9) A person shall:

- (a) Hunt from an established blind; and
- (b) Not change blinds.

(10) A blind shall not be used by more than four (4) hunters.

(11) A person shall only discharge a firearm from a blind.

(12) A person shall not possess more than fifteen (15) shotshells.

(13) A waterfowl hunter, mentor, or assistant shall immediately retrieve downed birds.

(14) A person shall encase a firearm if traveling to and from a blind.

(15) A hunter shall:(a) Cease hunting by noon; and

(b) Exit the area by 1 p.m.

(16) All decoys and equipment shall be removed at the end of each day's hunt.

(17) A hunter shall report harvest by depositing a completed hunt permit at the designated location.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Sloughs WMA Waterfowl Hunter Survey Report", January 2014; and

(b) "Ballard or Sloughs Waterfowl Quota Hunt Form", January

2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GREGORY K. JOHNSON, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: May 3, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2016, at 11 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons, bag limits and requirements on public lands within federal migratory bird hunting frameworks established in 50 C.F.R. Part 20 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2016-2017 waterfowl hunting requirements on public lands in accordance with the USFWS and Department management objectives.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to establish hunting season dates, bag limits and other hunting requirements. KRS 150.360 authorizes the department to restrict methods and hunting hours for taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation assists the above statutes by managing waterfowl populations and hunting opportunity consistent with state and national management requirements and strategies.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment closes Ballard WMA to hunting on Christmas Eve and the Crenshaw and Duncan tracts of Sloughs WMA to hunting on Tuesdays and Wednesdays.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide quality public hunting opportunity with minimal area use conflict that is consistent with meeting state and federal waterfowl management objectives.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective

administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new of by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendments in season dates and hunting requirements will be published in the fall waterfowl hunting guide and on the department's website. Hunters will need to comply with all applicable amendments to the hunting seasons.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional or amended costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be continued opportunity for quality waterfowl hunting on public areas.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: This administrative regulation change will not result in any additional cost for the Department to administer initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase any other fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: This administrative regulation does not establish any fees directly or increase fees indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Wildlife Division and Law Enforcement Division.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation amendment for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative

regulation amendment in subsequent years.

(c) How much will it cost to administer this program for the first year? No new costs will be incurred in the administration of this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred in the administration of this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

**TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 2:225. Dove, wood duck, teal, and other migratory game bird hunting.

RELATES TO: KRS 150.330, 150.340, 150.603
STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, [and] to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes the requirements for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Dove" means mourning dove or white-winged dove.

(2) "Migratory game bird" means mourning dove, white-winged

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dove, wood duck, teal, Canada goose, common gallinule, woodcock, snipe, purple gallinule, Virginia rail, or sora rail.

(3) "Teal" means green-winged teal, blue-winged teal, or cinnamon teal.

(4) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Season Dates. (1) A person shall not hunt a migratory game bird except during a season established in this administrative regulation.

(2) The following seasons established in paragraphs (a) through (g) of this subsection shall apply to migratory bird hunting:

(a) Dove, beginning on:

1. September 1 for fifty-six (56) consecutive days;

2. Thanksgiving Day for eleven (11) consecutive days; and

3. The Saturday before Christmas for twenty-three (23) consecutive days;

(b) Woodcock, beginning on the fourth Saturday in October~~[November—1]~~ for ~~forty-seven (47)~~~~[forty-five (45)]~~ consecutive days, except that the season shall be closed during the first two (2) days of modern gun deer season, as established in 301 KAR 2:172;

(c) Snipe, beginning on:

1. The third Wednesday in September for forty (40) consecutive days; and

2. Thanksgiving Day for sixty-seven (67) consecutive days;

(d) Wood duck, beginning on the third Saturday in September for five (5) consecutive days;

(e) Teal, beginning on the third Saturday in September for nine (9) consecutive days;

(f) Virginia rail, sora rail, common gallinule, and purple gallinule, beginning on September 1 for seventy (70) consecutive days; and

(g) Canada goose, beginning September 16~~[1]~~ for fifteen (15) consecutive days except that the following areas, as established in 301 KAR 2:224, shall be closed:

1. Public land in the Ballard Zone;

2. Public land in the West-Central Goose Zone; and

3. The Northeast Goose Zone.

Section 3. Bag and Possession Limits. (1) A person shall not exceed the following limits established in paragraphs (a) through (h) of this subsection:

(a) Dove:

1. Daily limit of fifteen (15); and

2. Possession limit of forty-five (45).

(b) Eurasian collared dove: No limit, except that a hunter, if in the field or during transport, shall keep one (1) of the parts established in subparagraphs 1. and 2. of this paragraph following attached to the bird:

1. The head; or

2. A fully-feathered wing.

(c) Woodcock:

1. Daily limit of three (3); and

2. Possession limit of nine (9).

(d) Snipe:

1. Daily limit of eight (8); and

2. Possession limit of twenty-four (24).

(e) Virginia and sora rail, singly or in aggregate:

1. Daily limit of twenty-five (25); and

2. Possession limit of seventy-five (75).

(f) Common and purple gallinule, singly or in aggregate:

1. Daily limit of three (3); and

2. Possession limit of nine (9).

(g) Wood duck and teal:

1. Daily limit of six (6), which shall not include more than two (2) wood ducks; and

2. Possession limit of eighteen (18), which shall not include more than six (6) wood ducks.

(h) Canada goose:

1. Daily limit of five (5); and

2. Possession limit of fifteen (15).

(2) A hunter who possesses a migratory game bird other than a dove, in the field or during transport, shall keep one (1) of the parts established in paragraphs (a) and (b) of this subsection following attached to the bird:

(a) The head; or

(b) A fully-feathered wing.

Section 4. Shooting Hours. A person shall not take a migratory game bird except during the times established in this section. (1) If hunting dove on WMA land, a person shall hunt:

(a) Between 11 a.m. and sunset during the September and October portion of the season, as established in Section 2 of this administrative regulation; and

(b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(2) If hunting dove on private land, a person shall hunt:

(a) Between 11 a.m. and sunset on September 1; and

(b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(3) Other species listed in this administrative regulation shall be taken between one-half (1/2) hour before sunrise and sunset.

Section 5. Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:

(1) Longer than three and one-half (3 1/2) inches; or

(2) Containing:

(a) Lead shot;

(b) Shot not approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21 for waterfowl hunting; or

(c) Shot larger than size "T".

Section 6. Hunter Orange. A person shall be exempt from hunter orange requirements pursuant to 301 KAR 2:132 and 2:172 if:

(1) Hunting waterfowl or doves; or

(2) Accompanying a person hunting waterfowl or doves.

Section 7. Exceptions to Statewide Migratory Game Bird Seasons on Specified Wildlife Management Areas. (1) A person shall not:

(a) Hunt wood duck or teal on an area closed to waterfowl hunting as established in 301 KAR 2:222;

(b) Hunt in an area marked by a sign as closed to hunting; or

(c) Enter an area marked by a sign as closed to the public.

(2) A person hunting dove on any of the following areas shall only use or possess nontoxic shot approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21:

(a) Ballard WMA;

(b) Boatwright WMA;

(c) Doug Travis WMA;

(d) Duck Island WMA;

(e) Kaler Bottoms WMA;

(f) Kentucky River WMA;

(g) Ohio River Islands WMA;

(h) Sloughs WMA;

(i) South Shore WMA;

(j) Yatesville Lake WMA; and

(k) A WMA wetland management unit that is posted by sign.

(3) At Ballard WMA, a person shall not hunt:

(a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after October 13; or

(b) Woodcock.

(4) In the Swan Lake Unit of Boatwright WMA, a person shall not hunt:

(a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after October 13; or

(b) Woodcock.

(5) At Miller Welch - Central Kentucky WMA, a person shall not

hunt:

- (a) Dove or snipe after October 13; or
- (b) Woodcock.
- (6) At Grayson Lake WMA, a person shall not hunt:
 - (a) Within three-quarters (3/4) of a mile from the dam including the no-wake zone of the dam site marina;
 - (b) On Deer Creek Fork; or
 - (c) On Camp Webb property or the state park, except for youths drawn for any department quota dove hunt on Camp Webb property in September.
- (7) At Land Between the Lakes National Recreation Area, a person shall not hunt a migratory game bird between the last Saturday in September and November 30.
- (8) At West Kentucky WMA, a person shall not hunt Canada geese during the September season.
- (9) At Yatesville Lake, the following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:
 - (a) The Greenbrier Creek embayment; and
 - (b) The lake area north of the mouth of the Greenbrier Creek embayment to the dam, including the island.
- (10) At Robinson Forest WMA, a person shall not hunt a migratory game bird on the main block of the WMA.

GREGORY K. JOHNSON, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: May 3, 2016

FILED WITH LRC: May 11, 2016 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2016, at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS). In addition, it establishes requirements for the hunting of migratory birds.
 - (b) The necessity of this administrative regulation: The necessity of this administrative regulation is to establish the 2016–2017 migratory bird seasons in accordance with the USFWS.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.
 - (d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: By establishing the migratory bird hunting seasons and area specific requirements, this administrative regulation maintains and manages migratory game bird conservation efforts consistent with national and international management goals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the start of woodcock season from the November first to the 4th Saturday in October and will close the woodcock season for the opening weekend of modern gun deer season. It will also shift the early Canada goose season to begin on September 16 rather than September 1. All these changes are consistent with the long-term Mississippi Flyway and continental management efforts and are within the USFWS required frameworks.

(b) The necessity of the amendment to this administrative regulation: The necessity of the amendment is to optimize Canada goose and woodcock hunting opportunity by adjusting the season structure.

(c) How the amendment conforms to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: There are approximately 40,000 migratory bird hunters and 550 woodcock hunters in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Goose hunters will see the season shift from the first 2 weeks of September to the latter two weeks of September. Woodcock hunters will see the season shift earlier from the November first open to a fourth Saturday in October open. They will also not be allowed to hunt the opening weekend of modern gun deer season.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be increased opportunity to hunt migratory game birds during the optimum season structure.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation change will result in no initial change in administrative cost to the Department.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment. It will not be necessary to increase any other fees or increase funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? Tiering was not applied. The same requirements and limits apply to all migratory bird hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of

Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 5:040. Migratory Bird Harvest Information Program~~(Selling and purchasing migratory game bird and waterfowl permits).~~

RELATES TO: KRS 150.235, 150.603(1), (2)
STATUTORY AUTHORITY: KRS 150.195(1),~~[(4)(g);]~~ 50 C.F.R. 20.20

NECESSITY, FUNCTION, AND CONFORMITY:~~[KRS 150.603 requires waterfowl and migratory game bird hunters to possess the appropriate permits; 50 C.F.R. 20.20 requires that waterfowl and migratory game bird hunters participate in a national harvest survey; and] KRS 150.195(1)[and (4)(g)]~~ authorizes the department to promulgate administrative regulations that provide for the design, issuance, distribution, and other matters relating to all~~[the application for and sale of] licenses and permits. 50 C.F.R. 20.20 requires that waterfowl or migratory shore and upland game bird hunters participate in a national harvest survey.~~ This administrative regulation establishes the requirements~~[procedures]~~ for hunters participating in~~[gathering information for]~~ the Migratory Bird Harvest Information Program.

Section 1. Definition. "The Migratory Bird Harvest Information Program" means an online survey that a person shall complete prior to legally hunting waterfowl or migratory shore and upland game birds.

Section 2. (1) Prior to hunting waterfowl or migratory shore and upland game birds, a person~~[purchasing a waterfowl permit or a migratory game bird permit] shall~~~~[(4)]~~ obtain a [Kentucky] Migratory Bird Harvest Information Program verification number by completing~~[hard copy form from the license agent:~~

~~(a) Complete the form, using black ink; and~~

~~(b) Return the form to the license agent;~~

~~(2) Complete] the Migratory Bird Harvest Information Program Survey~~~~[Kentucky migratory bird harvest information requested] on the department's web site at fw.ky.gov.~~

(2) A person shall possess the survey verification number established in subsection (1) of this section while hunting waterfowl or migratory shore and upland game birds~~[Kentucky Department of Fish and Wildlife Resources Internet site when purchasing a waterfowl or migratory game bird permit; or~~

~~(3) Provide the Kentucky migratory bird harvest information requested by the licensing agent when purchasing a waterfowl or migratory game bird permit by telephone.~~

Section 2. A license agent shall:

~~(1) Not sell a waterfowl permit or a waterfowl or migratory game bird permit to a person who has not complied with the provisions of Section 1 of this administrative regulation;~~

~~(2) Return completed Migratory Bird Harvest Information Program forms to the department:~~

~~(a) Weekly; and~~

~~(b) In the envelopes provided].~~

Section 3. Incorporation by Reference. (1) The "[Kentucky]Migratory Bird Harvest Information Program Survey" form, 2016~~[(1997] edition)~~, Department of Fish and Wildlife Resources, is incorporated by reference.

(2) This material~~[it]~~ may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane~~[Game Farm Road]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KAREN WALDROP, Deputy Commissioner
For GREGORY K. JOHNSON, Commissioner
DON PARKINSON, Secretary

VOLUME 42, NUMBER 12 – JUNE 1, 2016

APPROVED BY AGENCY: May 9, 2016
FILED WITH LRC: May 11, 2016 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2016, at 2 P.M. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires migratory bird hunters to complete the harvest information program survey and record a verification number as required by 50 C.F.R. 20.20 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to require completion of the migratory bird harvest information program as required by the USFWS.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.195(1) authorizes the department to promulgate administrative regulations that provide for the design, issuance, distribution, and other matters relating to all licenses and permits. 50 C.F.R. 20.20 requires that waterfowl or migratory shore and upland game bird hunters participate in a national harvest survey.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing a method for collecting harvest data.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change how hunters comply with the federal requirement of completing a migratory bird harvest information program survey in Kentucky. This amendment will require hunters to complete the survey online and obtain a verification number before hunting migratory birds. This amendment will remove the responsibility of administering the survey to hunters from vendors selling licenses.

(b) The necessity of the amendment to this administrative regulation: Poor quality data collection by vendors and problems created by "all in one" licenses resulted in Kentucky not meeting the obligation of data collection as required by 50 C.F.R. 20.20. The data collected is used by the USFWS to monitor harvest of migratory birds in Kentucky. This survey, when combined with data collected by other states, allows the USFWS to identify migratory bird hunters and to estimate harvest on a national scale.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: There are approximately 40,000 waterfowl and migratory bird hunters in Kentucky that may be affected by this administrative regulation. There are approximately

850 Kentucky Department of Fish and Wildlife license vendors that will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The waterfowl and migratory bird hunters will have to log on and complete the survey available at www.fw.ky and record the verification number before hunting migratory birds. The Kentucky Department of Fish and Wildlife license vendors will require no action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The license vendors will save time spent selling each license. Migratory bird hunters will ensure they are in compliance with requirements of 50 C.F.R. 20.20 by completing the survey themselves.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will not be an additional cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment. It will not be necessary to increase any fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish any fees directly or increase any fees indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines apply to all Migratory bird and waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.195(1) authorizes the department to promulgate administrative regulations that provide for the design, issuance, distribution, and other matters relating to all licenses and permits. 50 C.F.R. 20.20 requires that waterfowl or migratory shore and upland game bird hunters participate in a national harvest survey.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? No new costs will be incurred in the administration of this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred in the administration of this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. 20.20, Migratory Bird Harvest Information Program;

2. State compliance standards. The Department of Fish and Wildlife Resources surveys migratory bird hunters within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. 20.20.

3. Minimum or uniform standards contained in the federal mandate. 50 C.F.R. 20.20 requires the state hunting licensing authority must ask each licensed migratory bird and waterfowl hunter approximately how many ducks, geese, doves, and woodcock he or she bagged in the previous year and whether he or she hunted coots, snipe, rails, and/or gallinules the previous year.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management
(Amendment)

401 KAR 31:040. Lists of hazardous wastes.

RELATES TO: KRS Subchapters 224.1[224.01], 224.40, 224.43, 224.46, 224.50-130, 224.99, 40 C.F.R. 261 Subpart D
STATUTORY AUTHORITY: KRS 224.10-100, 224.46-510(3), 224.46-530, 224.50-130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.46-510(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This administrative regulation establishes the lists of hazardous wastes for Kentucky and is equivalent to federal standards established in 40 C.F.R. 261 Subpart D, except for the addition of Section 6[7] of this administrative regulation, which contains nerve and blister agents as required by KRS 224.50-130. This administrative regulation is different from, but not more stringent than, the federal counterpart in that some internal cross-references within 40 C.F.R. are replaced with Kentucky-specific cross-reference citations to Title 401 KAR. If not specifically replaced in an administrative regulation, internal federal cross-references are as established in 40 C.F.R.

Section 1. General Information. (1) Except as provided in this section, general information shall be as established in 40 C.F.R. 261.30[The subject matter shall be governed by 40 C.F.R. 261.30, effective July 1, 2005].

(2)(a) The citation to Section 3010 of RCRA in 40 C.F.R. 261.30[the federal regulation referenced in subsection (1) of this Section] shall be replaced with the requirement established in paragraph (b) of this subsection.

(b) After promulgation of an administrative regulation identifying a substance by its characteristics or listing as hazardous waste subject to 401 KAR Chapters 31 through 44, any person generating or transporting a substance or owning or operating a facility for treatment, storage, disposal, or recycling of the substance shall register by submitting to the cabinet a Notification of Hazardous Waste Activity, DEP 7037, incorporated by reference in 401 KAR 32:010, Section 4. The registration shall be filed within

ninety (90) days after promulgation or revision of the administrative regulation unless another notification date is specified in the administrative regulation[KRS 224.46-510].

(3) The citation to 40 C.F.R. 260.20 in 40 C.F.R. 261.30 shall be replaced with 401 KAR 31:035, Section 1.

(4) The citation to 40 C.F.R. 260.22 in 40 C.F.R. 261.30 shall be replaced with 401 KAR 31:035, Section 3.

(5) The citation to 40 C.F.R. 261.31 in 40 C.F.R. 261.30 shall be replaced with Section 2 of this administrative regulation.

(6) The citation to 40 C.F.R. 261.32 in 40 C.F.R. 261.30 shall be replaced with Section 3 of this administrative regulation.

(7) The citation to 40 C.F.R. 261.5 in 40 C.F.R. 261.30 shall be replaced with 401 KAR 31:010, Section 5.

(8) The citations to 40 C.F.R. parts 262 through 265, 267, 268, and 270 in 40 C.F.R. 261.30 shall be replaced with 401 KAR Chapters 32 through 35, 41, 37, and 38, respectively.

Section 2. Hazardous Wastes from Nonspecific Sources. (1) Except as provided in this section, hazardous wastes from nonspecific sources shall be as established in 40 C.F.R. 261.31[The subject matter shall be governed by 40 C.F.R. 261.31, effective July 1, 2005].

(2) The citation to 40 C.F.R. 260.20 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 31:035, Section 1.

(3) The citation to 40 C.F.R. 260.22 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 31:035, Section 3.

(4) The citation to 40 C.F.R. 261.31 and 40 C.F.R. 261.31(b)(2) in 40 C.F.R. 261.31 shall be replaced with this section.

(5) The citation to 40 C.F.R. 261.32 in 40 C.F.R. 261.31 shall be replaced with Section 3 of this administrative regulation.

(6) The citation to 40 C.F.R. 264.301 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 34:230, Section 2.

(7) The citation to 40 C.F.R. 265.301 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 35:230, Section 2.

(8) The citation to 40 C.F.R. 261.35 in 40 C.F.R. 261.31 shall be replaced with Section 5 of this administrative regulation.

(9) The citation to 40 C.F.R. 258.40 in 40 C.F.R. 261.31 shall be replaced with 401 KAR 48:070 and 48:080.

Section 3. Hazardous Waste from Specific Sources. (1) Except as provided in this section, hazardous waste from specific sources shall be as established in 40 C.F.R. 261.32[The subject matter shall be governed by 40 C.F.R. 261.32, effective July 1, 2005].

(2) The citation to 40 C.F.R. 260.20 in 40 C.F.R. 261.32 shall be replaced with 401 KAR 31:035, Section 1.

(3) The citation to 40 C.F.R. 260.22 in 40 C.F.R. 261.32 shall be replaced with 401 KAR 31:035, Section 3.

(4) The citation to 40 C.F.R. 258.40 in 40 C.F.R. 261.32 shall be replaced with 401 KAR 48:070 and 48:080.

Section 4. Discarded Commercial Chemical Products, Off-specification Species, Container Residues, and Spill Residues Thereof. (1) Except as provided in this section, discarded commercial chemical products, off-specification species, container residues, and spill residues thereof shall be as established in 40 C.F.R. 261.33[The subject matter shall be governed by 40 C.F.R. 261.33, effective July 1, 2005].

(2) The citation to 40 C.F.R. 261.2(a)(2)(i) in 40 C.F.R. 261.33 shall be replaced with 401 KAR 31:010, Section 2.

(3) The citation to 40 C.F.R. 261.7(b) in 40 C.F.R. 261.33 shall be replaced with 401 KAR 31:010, Section 7.

(4) The citation to 40 C.F.R. 261.5 and 40 C.F.R. 261.5(a) and (g) in 40 C.F.R. 261.33 shall be replaced with 401 KAR 31:010, Section 5.

Section 5. Deletion of Certain Hazardous Waste Codes Following Equipment Cleaning and Replacement. (1) Except as provided in this section, deletion of certain hazardous waste codes following equipment cleaning and replacement shall be as established in 40 C.F.R. 261.35[The subject matter shall be governed by 40 C.F.R. 261.35, effective July 1, 2005].

(2) The citation to 40 C.F.R. 261.35 in 40 C.F.R. 261.35 shall be replaced with this section.

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Section 6. [~~Comparable Syngas Fuel Exclusion.~~] (1) The subject matter shall be governed by 40 C.F.R. 261.38, effective July 1, 2005.

(2) ~~The reference in 40 C.F.R. 261.38 to 40 C.F.R. 261.28(c)(10) is incorrect. The references shall be listed as 40 C.F.R. 261.38(c)(10).~~

Section 7. Additional Requirement Concerning Nerve and Blistering Agents. The following substances in Table I are listed as hazardous wastes in the Commonwealth of Kentucky.

Table I	
Ky. Hazardous Waste No.	Substance
N001	GB (isopropyl methyl <u>phosphonofluoridate</u> [<u>phosphonofluoridate</u>]) and related compounds (H)
N002	VX (O-ethyl-S-(2-diisopropyl-aminoethyl)-methyl phosphonothiolate) and related compounds (H)
N003	H (bis (2-chloroethyl) sulfide) and related compounds (H)
N101	<u>Uncontaminated M67 Rocket Motor Assembly, Propellant Component of the Rocket Motor, Shipping Firing Tubes, and End-Caps associated with GB munitions</u>
N102	<u>Uncontaminated M67 Rocket Motor Assembly, Propellant Component of the Rocket Motor, Shipping Firing Tubes, and End-Caps associated with VX munitions</u>
N201	<u>Metal Parts Treater Residue associated with GB munitions or related wastes</u>
N202	<u>Metal Parts Treater Residue associated with VX munitions or related wastes</u>
N203	<u>Static Detonation Chamber Residue and Ash associated with H munitions</u>
N301	<u>Agent Hydrolysate associated with GB munitions</u>
N302	<u>Agent Hydrolysate associated with VX munitions</u>
N401	<u>Energetic Hydrolysate associated with GB munitions</u>
N402	<u>Energetic Hydrolysate associated with VX munitions</u>
N501	<u>Aluminum Precipitate associated with treated GB wastes</u>
N502	<u>Aluminum Precipitate associated with treated VX wastes</u>
N601	<u>Reverse Osmosis Reject or Supercritical Water Oxidation Effluent associated with treated GB wastes</u>
N602	<u>Reverse Osmosis Reject or Supercritical Water Oxidation Effluent associated with treated VX wastes</u>
N701	<u>Lab Wastes associated with treated GB wastes</u>
N702	<u>Lab Wastes associated with treated VX wastes</u>
N703	<u>Lab Wastes associated with treated H wastes</u>

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 19, 2016

FILED WITH LRC: April 26, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2016 at 10:00 a.m. (Eastern Time), at 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing by June 21, 2016, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit

written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Louanna Aldridge, Division of Waste Management, 200 Fair Oaks, Second Floor, Frankfort, Kentucky 40601, phone (502) 564-6716, fax (502) 564-4049, email Louanna.Aldridge@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Louanna Aldridge

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the lists of hazardous wastes for Kentucky and is equivalent to federal standards established in 40 C.F.R. 261 Subpart D, except for the addition of nerve and blister agents as required by KRS 224.50-130.

(b) The necessity of this administrative regulation: This administrative regulation establishes hazardous waste codes to appropriately characterize the risk levels of the waste for treatment, handling, and transportation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes by setting forth the lists of hazardous wastes as required by KRS 224.46-510(3) and includes the additional wastes required to be listed by KRS 224.50-130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation codifies hazardous waste codes as required by KRS 224.46-510(3).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will add additional hazardous waste codes for the treated wastes of nerve and blistering agents. This administrative regulation amendment references the changes to 40 C.F.R. 261.31 modifying the F019 listing to allow wastewater treatment sludge to be disposed of as a nonhazardous waste. Due to the removal of 40 C.F.R. 261.38, the comparable syngas fuel exclusion, the reference was also removed from this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to more clearly delineate the risks associated with the wastes from the treatment of the nerve and blistering agents. In addition, the regulation references the F019 listing modification to be not more stringent than the federal regulation, and the removal of the comparable syngas fuel exclusion to be not less stringent than the federal regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statutes by codifying new waste codes to address the treated nerve and blistering agent waste streams as authorized by KRS 224.50-130. The amendment to F019 and the removal of the comparable syngas fuel exclusion are equivalent with the federal regulation counterparts.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will codify the new hazardous waste codes needed for appropriate classification to manage and transport the treated nerve and blistering agent waste streams. The amendment to F019 and the removal of the comparable syngas fuel exclusion are equivalent with the federal regulation counterparts.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the Blue Grass Army Depot and any entity that must treat or transport the treated nerve and blistering agent waste streams. The amendment to F019 will affect the automotive industry. The removal of the comparable syngas fuel exclusion will affect any facility that is currently treating, storing, disposing or otherwise managing hazardous wastes previously excluded from Resource

Conservation and Recovery Act.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Bluegrass Army Depot will have to identify waste streams based on the newly codified hazardous waste codes to determine proper treatment, transportation, storage and disposal of the wastes. The automotive industry will no longer have to dispose of the wastewater treatment sludge as a listed hazardous waste per the amended definition of F019. Any facility operating under the comparable syngas fuel exclusion will have to determine if the fuel being used meets the definition of a hazardous waste and follow the appropriate requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The additional hazardous waste codes and the amendment to F019 will reduce transportation and disposal costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operating costs of the facilities will be reduced for the additional hazardous waste codes and the amendment to F019. In addition, the Bluegrass Army Depot will be enabled to complete training and Operational Readiness under the current construction schedule to comply with the International Treaty.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no cost to the administrative body initially.

(b) On a continuing basis: There will be no cost to the administrative body on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation and enforcement of this administrative regulation will be funded by the federal ACWA (Assembled Chemical Weapons Alternatives) and RCRA grant.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require increases in fees or funding to implement this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not increase any fees either directly or indirectly for the additional hazardous waste codes or the amendment to F019.

(9) TIERING: Is tiering applied? This administrative regulation does not apply tiering as it is applied equally throughout the commonwealth.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 3006 of the Resource Conservation and Recovery Act (RCRA) requires the lists of hazardous wastes in this administrative regulation to be equivalent to the list promulgated by the U.S. Environmental Protection Agency (EPA) in 40 C.F.R. 261 in order to receive state authorization.

2. State compliance standards. KRS 224.10-100, KRS 224.46-505, KRS 224.50-130, and KRS 224.46-530.

3. Minimum or uniform standards contained in the federal mandate. Section 3006 of RCRA and 40 C.F.R. 261.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation imposes stricter requirements than those required by the federal mandate for nerve and blistering agents required to be listed by KRS 224 50-130.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. KRS 224.50-130 requires the cabinet to regulate chemical munitions as

hazardous waste. The following compounds are established as chemical munitions and therefore listed hazardous wastes in KRS 224.50-130: GB (isopropyl methyl phosphonofluoridate), VX (O-ethyl-S-(2-diisopropylaminoethyl)methyl phosphonothiolate), and H (bis(2-chloroethyl)sulfide), and any related compounds. Therefore, this administrative regulation imposes a stricter standard than 40 C.F.R. 261 by including the additional listed wastes as required by KRS 224.50-130.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation may impact any unit of state or local government that generates, treats, transports, stores or disposes of a listed hazardous waste.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.46-510(3) requires the cabinet to identify the characteristics of and to list hazardous wastes as established by EPA pursuant to RCRA. Section 3006 of RCRA requires these lists to be equivalent to the list promulgated by the EPA in 40 C.F.R. 261 in order to receive state authorization. KRS 224.50-130 requires the cabinet to include the additional nerve and blistering agents to the listed hazardous waste codes.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not affect the expenditures or revenues of a state or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for the state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for the state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not have any additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not have any additional costs for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: This administrative regulation will not generate additional revenue or expenditures for the administrative body.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Department of Education

(Amendment)

780 KAR 7:060. Equipment inventory and insurance.

RELATES TO: KRS 45.301(1)(f), 45.313, 56.070-56.185, 156.802(3), 156.852[+51B.025(3), +51B.150]

STATUTORY AUTHORITY: KRS 156.802(3)[+51B.025(3)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45.301(1)(f) requires the Finance and Administration Cabinet to supervise purchasing and storekeeping and control of property and stores. KRS 45.313 requires that each budget unit shall maintain a current inventory of equipment having an original cost of \$500 or

more. This inventory shall be available for examination by the Finance and Administration Cabinet at all times. KRS 56.070-56.185 grants the Finance and Administration Cabinet the authority to determine state property to be insured under the state fire and tornado insurance fund. KRS 156.802[151B-025] requires the Associate Commissioner[Executive Director] of the Office of Career and Technical Education to administer the state-operated career and technical education program. This administrative regulation establishes policy and operating procedures relative to the inventory and insurance of state-operated career and technical education equipment.

Section 1. (1) The Office of Administration and Support[~~Administrative Services~~] shall be responsible for the management and control of an inventory system for career and[~~vocational~~] technical education programs.

(2) All equipment with a value of \$500[250] or more acquired in whole or in part with state funds shall be maintained on this inventory and identified in accordance with 200 KAR 5:021.

(3) The area technology centers shall be responsible for conducting an annual inventory of all property.

(4) All equipment acquired in whole or in part with federal funds shall be maintained on the current inventory.

Section 2. Except as provided in subsections (1), (2), and (3) of this section, all career and technical education equipment in the Kentucky TECH schools shall be covered by the State Fire and Tornado Insurance Fund regular policy underwritten by the Commonwealth of Kentucky.

(1) Equipment insured for full coverage under the state computer insurance policy shall not be covered under the State Fire and Tornado Insurance Fund.

(2) Equipment normally utilized and stationed at remote locations shall be insured under the floater clause in the Fire and Tornado Insurance Fund.

(3) Equipment on loan from industry requiring insurance shall be insured under the Inland Marine policy underwritten by the Commonwealth of Kentucky.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner
ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2016, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides equipment inventory procedures for the state-operated area technology centers.

(b) The necessity of this administrative regulation: This regulation is required in order to comply with the supervision requirements of Kentucky's Finance and Administration Cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 45.301(1)(f) gives the Finance and Administration Cabinet supervision of the purchasing, storekeeping, and control of property and stores. KRS 45.513 mandates that each budget unit shall maintain a current inventory of equipment having an original cost of \$500 or more. KRS 156.802(3) gives the Department of Education the responsibility for all administrative functions of the state in relation to the management, control, and operation of the state-operated area technology centers. KRS 156.852 gives the Kentucky Board of Education the authorization to carry out the purposes of the program of career and technical education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendments to this administrative regulation simplify the agency's regulatory scheme, eliminates confusion by combining equipment requirements into a single regulation, and increases efficiency of the agency and career and technical education programs.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments to this regulation revise and update the regulation title, incorporate relevant language from 780 KAR 7:070 (which has been recommended for repeal), and revise outdated terminology.

(b) The necessity of the amendment to this administrative regulation: The amendments ensure that all requirements related to equipment reside together within a single regulation. The title amendment clarifies that this regulation addresses both equipment inventory and insurance. Other updates and revisions are necessary to comply with the Finance and Administration Cabinet and to reflect accurate, up-to-date language for the agency.

(c) How the amendment conforms to the content of the authorizing statute: Amendments align with the requirements of the Finance and Administration Cabinet and align with the authorizing powers of the Kentucky Department of Education and the Kentucky Board of Education in relation to the state-operated area technology centers.

(d) How the amendment will assist in the effective administration of the statutes: The amendments assist with the proper implementation of operating procedures relative to equipment inventory and insurance.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: State-operated area technology centers in Kentucky, as well as supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The amendments will impact the area technology centers and the Kentucky Department of Education by eliminating confusion and providing updated regulatory requirements related to equipment inventory and insurance.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to the schools, districts or the Kentucky Department of Education.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The area technology centers will experience a more simplified scheme of regulatory requirements and operate in compliance with updated requirements from the Finance and Administration Cabinet.

(5) Provide an estimate of how much it will cost the

administrative body to implement this administrative regulation:

- (a) Initially: Additional costs are not anticipated.
- (b) On a continuing basis: Additional costs are not anticipated.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Additional costs are not anticipated.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? State-operated area technology centers.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 45.301(1)(f), 45.313, 56.070-185, 156.802(3), 156.852.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Regulation does not generate revenue or establish fees.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:300. General.

RELATES TO: KRS 338.015, 29 C.F.R. 1910.3-1910.7, 1910.9
STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. 29 C.F.R. 1910.3-1910.7 and 1910.9 establish occupational safety and health standards found to be national consensus standards or established federal standards. This administrative regulation establishes the general standards to be enforced by the Department of Workplace Standards in general

industry.

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(3) "C.F.R." means Code of Federal Regulations.

(4) "Employee" is defined by KRS 338.015(2).

(5) "Employer" is defined by KRS 338.015(1).

(6) "Established federal standard" is defined by KRS 338.015(10).

(7) "National consensus standard" is defined by KRS 338.015(9).

(8) "Secretary of Labor" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(9) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

(10) "U.S. Department of Labor" means U.S. Department of Labor or Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Administration:

(1) 29 C.F.R. 1910.3-1910.7 and 1910.9, revised July 1, 2015; and

(2) The revisions to 29 C.F.R. 1910.6 as published in the March 25, 2016 Federal Register, Volume 81, Number 58[2013; and

~~(2) The revisions to 29 C.F.R. 1910.6 as published in the June 13, 2013 Federal Register, Volume 78, Number 114, and confirmed and corrected in the November 6, 2013 Federal Register, Volume 78, Number 215].~~

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of: (a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910. Section 2 also updates 1910.6 to incorporate by reference ANSI/ISEA Z87.1-2010 as published in the March 25, 2016

Federal Register, Volume 81, Number 58.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: (a) How the amendment will change this existing administrative regulation: Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910. Section 2 also updates 1910.6 to incorporate by reference ANSI/ISEA Z87.1-2010. This amendment also updates the administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Because the amendment requires no new occupational safety and health requirements, no new costs are expected to be associated with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: There will be no new cost to implement this specific amendment.

(b) On a continuing basis: There will be no costs on a continuing basis to implement this amendment to the administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment does not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Neither the regulation nor the amendments to the regulation impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no costs associated with this amendment.

(d) How much will it cost to administer this program for subsequent years? There are no expected costs associated with the related amendments of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: The specific amendment to this regulation is not expected to create any additional costs to the entities. No information was available specific to this state.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:307. Hazardous materials.

RELATES TO: KRS Chapter 338, 29 C.F.R. 1910.101-1910.126

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338, 29 C.F.R. 1910.101-1910.126 establishes federal requirements relating to hazardous materials. This administrative regulation establishes hazardous materials standards to be enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "Assistant secretary" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined by KRS 338.015(2).

(4) "Employer" is defined by KRS 338.015(1).

(5) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation and the requirements established in Section 3 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.101-1910.126, revised July 1, 2015 [2012]; and

(2) The revisions to 29 C.F.R. 1910.107 as published in the March 1, 2016, Volume 81, Number 40 Federal Register [29 C.F.R. 1910.119 and 1910.120 as published in the February 8, 2013 Federal Register, Volume 78, Number 27].

Section 3. Automotive Service Station. (1) The language in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.106(a)(3).

(2) Automotive service station, or service station, shall include that portion of property where flammable or combustible liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles and shall include any facilities available for the sale and service of tires, batteries, or

accessories, and for minor automotive maintenance work, and shall also include private stations not accessible or open to the public such as those used by commercial, industrial, or governmental establishments. This section shall not apply to agriculture.

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY:

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910.101-126. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. 1910.119 and .120, as published in the March 1, 2016 Federal Register, Volume 81, Number 40. Section 3 of the regulations changes the language of the federal requirement related to flammable and combustible liquids at automotive service stations. This different requirement has been enforced by the Kentucky OSH Program prior to 1996. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:307 must be amended to include the adopted changes.

The correction to the Code of Federal Regulations in this Federal Register was to reinstate text in the definitions of 1910.107 that was inadvertently deleted. This text contained the definition of the term "flashpoint." This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety

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throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910.101-.126. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. 1910.119 and .120, as published in the March 1, 2016 Federal Register, Volume 81, Number 40. This Federal Register simply corrects language that was left out of a previous revision to this standard. As a result of the adoption of this final rule 803 KAR 2:307 must be amended to include the adopted changes. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are expected from this correction to the regulatory text.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate. Section 3 of this regulation currently imposes stricter requirements than those of OSHA; this different requirement has been in effect since 1996. This different requirement clarifies that the regulation applies to automotive service stations not accessible by the public.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate. Section 3 of this regulation currently imposes stricter requirements than those of OSHA; this different requirement has been in effect since 1996. This different requirement clarifies that the regulation applies to automotive service stations not accessible by the public.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year?

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation:

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:308. Personal protective equipment.

RELATES TO: 29 C.F.R. 1910.132-1910.138

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to adopt occupational safety and health administrative regulations. 29 C.F.R. 1910.132 to 1910.138 and Appendices establish the federal requirements relating to personal protective equipment. This administrative regulation establishes personal protective equipment standards to be enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "C.F.R." means Code of Federal Regulations.

(2) "Employee" is defined in KRS 338.015(2).

(3) "Employer" is defined in KRS 338.015(1).

(4) "Established federal standard" is defined in KRS 338.015(10).

(5) "National consensus standard" is defined in KRS 338.015(9).

(6) "Standard" is defined in KRS 338.015(3).

(7) "U.S. Department of Labor" means Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Administration:

(1) 29 C.F.R. 1910.132 through 29 C.F.R. 1910.138, and Appendices, revised July 1, 2015[2013]; and

(2) The amendments to 29 C.F.R. 1910.133 as published in the March 25, 2016 Federal Register Volume 81, Number 58[The amendments to 29 C.F.R. 1910 Subpart I as published in the April 11, 2014, Federal Register, Volume 79, Number 70].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation.

A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910.132-.138. Section 2 also updates the C.F.R. to July 2015 and adopts the amendments published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of the aforementioned rules, 803 KAR 2:308 must be amended to include the adopted changes. The final rule will revise the eye and face protection standard for general industry.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: (a) How the amendment will change this existing administrative regulation. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910.132-.138. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. 1910.132-138 as published in the March 25, 2016 Federal Register, Volume 81, Number 58. This Federal Register incorporates the most recent ANSI eye and face consensus standard and removes the oldest-referenced edition of the same standard. As a result of the adoption of this final rule, 803 KAR 2:308 must be amended to include the adopted changes. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective

administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are expected from this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational

Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.
Expenditures (+/-): Unknown.
Other explanation:

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:317. Special industries.

RELATES TO: KRS 338.015, 338.051(3), 338.061, 29 C.F.R. 1910.261-1910.272

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. 29 C.F.R. 1910.261 to 1910.272 authorize the federal requirements relating to special industries. This administrative regulation establishes the special industries standards to be enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "Assistant Secretary" means

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Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

- (2) "C.F.R." means Code of Federal Regulations.
- (3) "Employee" is defined in KRS 338.015(2).
- (4) "Employer" is defined by KRS 338.015(1).
- (5) "Standard" is defined by KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

- (1) 29 C.F.R. 1910.261-1910.272, effective July 1, 2015[2014];
- (2) The amendments to 29 C.F.R. 1910.269 as published in the October 5, 2015 Federal Register, Volume 80, Number 192[The amendments to 29 C.F.R. 1910.269 as published in the September 24, 2014 Federal Register, Volume 79, Number 185; and
- (3) The amendment to 29 C.F.R. 1910.266 as published in the July 1, 2014 Federal Register, Volume 79, Number 126].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 updates the C.F.R. to July 1, 2015 and requires employers to comply with the requirements of 29 C.F.R. 1910.301 through 29 C.R.R. 1910.331 as published in the October 5, 2015 Federal Register. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:317 must be amended to include the adopted changes. The October 5, 2015 final rule limits the scope of 1910.269 as it relates to line-clearance tree trimming and adds clarifying language to only include work performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and the organizations that operate or control the operating procedures for those lines or equipment. The amendment clarifies that the electrical safety-related work practices in subpart S cover qualified persons performing work near, but not on or directly associated with installations listed in 1910.33(c)(1) through (c)(4). Lastly, this final rule corrects minor approach distances in Table R-6 of 1910.269 as published in the October 5, 2015 Federal Register,

Volume 80, Number 192.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: (a) How the amendment will change this existing administrative regulation. Section 2 updates the C.F.R. to July 1, 2015 and requires employers to comply with the requirements of 29 C.F.R. 1910.301 through 29 C.R.R. 1910.331 as published in the October 5, 2015 Federal Register. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:317 must be amended to include the adopted changes. The October 5, 2015 final rule limits the scope of 1910.269 as it relates to line-clearance tree trimming and adds clarifying language to only include work performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and the organizations that operate or control the operating procedures for those lines or equipment. The amendment clarifies that the electrical safety-related work practices in subpart S cover qualified persons performing work near, but not on or directly associated with installations listed in 1910.33(c)(1) through (c)(4). This amendment also corrects Table V-6 in 1910.269, changing "0.50" to read "0.050. As a result of the adoption of this final rule 803 KAR 2:317 must be amended to include the adopted changes. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative

regulation or amendment: No additional compliance duties are expected from this correction to the regulatory text.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year?

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.
Expenditures (+/-): Unknown.
Other explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:318. Electrical.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1910.301-1910.399

STATUTORY AUTHORITY: KRS 338.051(3), 338.061
NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. 29 C.F.R. 1910.301-1910.399 establishes the federal requirements relating to electrical safety. This administrative regulation establishes electrical safety standards to be enforced by the Division of Occupational Safety and Health Compliance in general industry.

Section 1. Definitions. (1) "Assistant Secretary" means Secretary, Labor Cabinet, or Commissioner of the Department of Workplace Standards, Labor Cabinet.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined by KRS 338.015(2).

(4) "Employer" is defined by KRS 338.015(1).

Section 2. (1) General industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, except as modified by the definitions established in Section 1 and the requirements in Section 3 of this administrative regulation:

(a) 29 C.F.R. 1910.301 through 29 C.F.R. 1910.399, and Appendices, revised July 1, 2015[2013]; and

(b) The amendments to 29 C.F.R. 1910.331 as published in the October 5, 2015 Federal Register, Volume 80, Number 192[The revisions to 29 C.F.R. 1910.331 and 29 C.F.R. 1910.399 as published in the April 11, 2014 Federal Register, Volume 79,

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Number 70].

(2) The term "may not" as used in the federal regulations shall be considered a prohibition.

Section 3. (1) 29 C.F.R. 1910.333(b)(2)(iii)(C) is amended to read as follows: "If a lock cannot be applied, tagging procedures shall provide a level of safety equivalent to that obtained by the use of a lock, as outlined in paragraph (b)(2)(iii)(D)."

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 updates the C.F.R. to July 1, 2015 and establishes the amendments to 29 C.F.R. 1910 as published in the October 5, 2015 Federal Register. Section 3 covers the provisions found in 1910.331 through 1910.335. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:318 must be amended to include the adopted changes. This amendment clarifies that 1910.331 covers qualified workers performing work near, but not on or directly associated with installations listed in 1910.331(c)(1) through (c)(4). Employers are also required to use tagging procedures as outlined in 1910.333(b)(2)(iii)(D) when a lock cannot be used.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as

the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: (a) How the amendment will change this existing administrative regulation. Section 2 updates the C.F.R. to July 1, 2015 and establishes the amendments to 29 C.F.R. 1910 as published in the October 5, 2015 Federal Register. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:318 must be amended to include the adopted changes. This amendment clarifies that 1910.331 covers qualified workers performing work near, but not on or directly associated with installations listed in 1910.331(c)(1) through (c)(4). Employers are also required to use tagging procedures as outlined in 1910.333(b)(2)(iii)(D) when a lock cannot be used. As a result of the adoption of this final rule 803 KAR 2:318 must be amended to include the adopted changes. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are expected from this correction to the regulatory text.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation

establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes. Section 3 of this administrative regulation carries requirements which are stricter than those required by the federal mandate. This section places requirements on employers related to the utilization of lockout/tagout procedures for disconnecting deenergized circuits. This provision has been in place since December 15, 1989. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year?

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation:

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance Division of Occupational Safety and Health Education and Training (Amendment)

803 KAR 2:320 Toxic and hazardous substances.

RELATES TO: KRS 338.015, 338.031, 29 C.F.R. 1910.134, 1910.141, 1910.1000-1910.1450

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. 29 C.F.R. 1910.1000 to 1910.1450 establish federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Department of Workplace Standards in the area of general industry.

Section 1. Definitions. (1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of three-tenths (0.3) μ particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

(3) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(4) "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

(5) "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline).

(6) "Closed system" means an operation involving 4, 4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4' Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(7) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(8) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

(9) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(10) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that may result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(11) "Employee" is defined by KRS 338.015(2).

(12) "Employer" is defined by KRS 338.015(1).

(13) "Established federal standard" is defined by KRS 338.015(10).

(14) "External environment" means any environment external to regulated and nonregulated areas.

(15) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry

of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(16) "Laboratory type hood" means a device:

(a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and

(b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than hands and arms.

(17) "National consensus standard" is defined by KRS 338.015(9).

(18) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(19) "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(20) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(21) "Regulated area" means an area where entry and exit is restricted and controlled.

(22) "Standard" means "occupational safety and health standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero-tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, and stored. Those areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.

2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.

a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;

2. Decontaminated before removing the protective garments and hood; and

3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4.a. Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area.

b. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

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d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section; and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where solution may be spilled shall be:

a. Covered daily or after any spill with a clean covering; and

b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.

2. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years.

3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.

4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3.a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as provided in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

a. Local exhaust ventilation may be used to satisfy this requirement.

b. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

(4) Signs, information, and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

Authorized Personnel Only

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed

In this Area

Impervious Suit Including Gloves,

Boots, and Air-Supplied Hood

Required At All Times

Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this

subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application of decontamination practices and procedures;

e. The purpose for and significance of emergency practices and procedures;

f. The employee's specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations that may result in the release of 4,4'-Methylene bis (2-chloroaniline); and

h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be prescribed and posted, and employees shall be familiarized with their terms and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain the following information:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;

2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;

3. The number of employees in each regulated area, during normal operations including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest Area Director.

2. A written report shall be filed with the nearest Area Director within fifteen (15) calendar days of the initial report and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

b. A description of the area involved, and the extent of known and possible employee and area contamination;

c. A report of any medical treatment of affected employees and

any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor; records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016. (1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

(b)1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before

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engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

(b)1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation; and

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities.

(9) Air pressure in laboratory areas, and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time previously specified assure that either:

(a) A copy of the record is provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record; or

(c) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5.(1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as modified by Sections 1 through 5 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.1000 - 1910.1450, revised July 1, 2015; and[2012;]

(2) The revisions to 29 C.F.R. 1910 Subpart Z as published in the March 25, 2016 Federal Register, Volume 81, Number 58[The revisions to 29 C.F.R. 1910.1450 as published in the January 22, 2013 Federal Register, Volume 78, Number 14;

(3) The revisions to Subpart Z as published in the February 8, 2013 Federal Register, Volume 78, Number 27; and

(4) The revision to 29 C.F.R. 1910.1030 as published in the April 3, 2012 Federal Register, Volume 77, Number 64].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements on employers related to the use of 4,4'-Methylene bis (2-Chloroaniline), which the federal regulation does not. This provision has been in place since February 12, 1996. Section 3 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016. This provision has been in place since February 12, 1996. Section 4 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements related to access to exposure or medical records. This provision has been in place since July 17, 1997. Section 5 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements related to glove use as it applies to 29 C.F.R. 1910.1030. This provision has been in place since October 7, 1992. Section 6 requires employers in general industry to comply with the requirements of Subpart Z of 29 C.F.R. 1910 and updates the C.F.R. to July 1, 2015. Section 6 also establishes the amendments to Subpart Z as published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted these amendments on May 10, 2016. As a result of the adoption of these final rules 803 KAR 2:320 must be amended to include the adopted changes. With the March 25, 2016 final rule, OSHA is adding additional requirements where employees may be exposed to silica. This rule greatly expands upon the previous requirement which only limited an employee's exposure through the permissible exposure limit (PEL). After much

research and the continuing exposure of workers to silica, OSHA decided that the current PEL for respirable silica was not sufficient to protect the safety and health of workers. This final rule revises the old PEL and requires that employers use engineering controls to reduce workers' exposure to silica. The new PEL is set at 50 micrograms per meter cubed, which is approximately half of the former PEL in general industry. Even with this cut in the PEL, OSHA believes a significant risk to employees remains; however, OSHA considers this PEL to be the lowest that can reasonably be achieved in most affected industries. In addition to the revised PEL, OSHA is requiring the implementation of engineering controls to include wetting the work operations or using ventilation before the use of respirators. The new standard requires the employer to evaluate employee exposures and then based on exposure levels the employer must implement engineering controls and/or work practices. Work practices that may be necessary include creating a regulated area, ensuring the presence of a competent person, conducting medical surveillance and training employees on the hazards of silica. OSHA believes that approximately 676,000 workplaces will be affected across the construction, general, and maritime industries. This will include approximately 2.3 million workers, the majority of which are in the construction industry. OSHA estimates the net benefit of the rule to be between 3.8 and 7.7 billion dollars. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 6 requires employers in general industry to comply with the requirements of Subpart Z of 29 C.F.R. 1910 and updates the C.F.R. to July 1, 2015. Section 6 also established the amendments to Subpart Z as published in the March 25, 2016 Federal Register, Volume 81, Number 58. This Federal Register sets forth work practices and engineering controls that are required where employees are exposed to respirable crystalline silica in the workplace. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains

consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Approximately 676,000 workplaces in the nation are expected to be affected by this final rule which requires employers to implement engineering controls and work practices where employees are exposed to respirable crystalline silica. Engineering controls may include the use of wet work practices or local exhaust ventilation. Work practices may include the designation of a regulated area, use of personal protective equipment, medical surveillance of exposed employees, and hazard training.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The annualized cost of the rule is around 1 billion dollars with the net benefits of the rule around 3.8 -7.7 billion.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. The

Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Section 2 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements on employers related to the use of 4,4'-Methylene bis (2-Chloroaniline), which the federal regulation does not. This provision has been in place since February 12, 1996. Section 3 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016. This provision has been in place since February 12, 1996. Section 4 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements related to access to exposure or medical records. This provision has been in place since July 17, 1997. Section 5 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements related to glove use as it applies to 29 C.F.R. 1910.1030. This provision has been in place since October 7, 1992. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Section 2 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements on employers related to the use of 4,4'-Methylene bis (2-Chloroaniline), which the federal regulation does not. This provision has been in place since February 12, 1996. Section 3 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016. This provision has been in place since February 12, 1996. Section 4 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements related to access to exposure or medical records. This provision has been in place since July 17, 1997. Section 5 of this administrative regulation carries requirements which are stricter than those required by OSHA. This section places requirements related to glove use as it applies to 29 C.F.R. 1910.1030. This provision has been in place since October 7, 1992. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? OSHA expects the rule to result in annual costs of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor.

(d) How much will it cost to administer this program for subsequent years? OSHA expects the rule to result in annual cost of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: No information was specific to local governments, but estimated expenditures of about 560 dollars were given for smaller firms affected by the regulation.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:400. Adoption of 29 C.F.R. 1926.1-6.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS 338.051, 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 require the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, administrative regulations, and standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 C.F.R. 1926.

Section 1. Definitions. (1) "Assistant secretary" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined by KRS 338.015(2).

(4) "Employer" is defined by KRS 338.015(1).

(5) "Standard" is defined by KRS 338.015(3).

Section 2. The construction industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Administration, except as modified by the definitions established in Section 1 of this administrative regulation:

(1) 29 C.F.R. 1926.1- 6, revised July 1, 2015; and [2013;]

(2) The amendments to 29 C.F.R. 1926.6 as published in the March 25, 2016 Federal Register, Volume 81, Number 58 [The revisions to 29 C.F.R. 1926.6 as published in the June 13, 2013 Federal Register, Volume 78, Number 114 and corrected and confirmed in the November 6, 2013 Federal Register, Volume 78, Number 215; and

(3) ~~The revisions to 29 C.F.R. 1926.6 as published in the April 11, 2014 Federal Register, Volume 79, Number 70].~~

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public

hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1926.1-6. Section 2 also updates the C.F.R. to July 1, 2015 and amends 1926.6 to incorporate by reference ANSI Z87.1-2010, while deleting ANSI Z87.1-1968 published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:400 must be amended to include the adopted changes. The final rule updates the latest eye and face consensus standard for the construction industry.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 2 updates the C.F.R. to July 1, 2015 and amends 1926.6 to incorporate by reference ANSI Z87.1-2010, while deleting ANSI Z87.1-1968 published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:400 must be amended to include the adopted changes. This final rule updates the latest eye and face consensus standard for the construction industry. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent

requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are expected from this correction to the regulatory text.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in construction activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no expected costs because there are no additional compliance duties required by this amendment.

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.
Expenditures (+/-): Unknown.
Other explanation:

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:403. Occupational health and environmental controls.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1926.50-1926.66

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health

Standards Board to adopt and promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.50 to 1926.66 establish the federal requirements relating to occupational health and environmental controls. This administrative regulation establishes the occupational health and environmental control standards to be enforced by the Department of Workplace Standards in the area of construction.

Section 1. Definitions. (1) "Assistant secretary" means Secretary, Labor Cabinet or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "Director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

(3) "U.S. Department of Labor" means Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, the construction industry shall comply with the following federal requirements published in the Office of the Federal Register, National Archives and Records Services:

(1) 29 C.F.R. 1926.50 through 1926.66, revised July 1, 2015[2012]; and

(2) The revisions to 29 C.F.R. 1926.55 as published in the March 25, 2016 Federal Register, Volume 81, Number 58[The revisions to 29 C.F.R. 1926.62 and 1926.65 as published in the February 8, 2013 Federal Register, Volume 78, Number 27].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1926.50-.66. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. 1926.55, as published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standard Board adopted these amendments on May 10, 2016. As a result of the adoption of this final rule, 803 KAR 2:403 must be amended. With the March 25, 2016 final rule, OSHA is adding additional requirements where employees may be exposed to silica. This rule greatly expands upon the previous requirement which only limited an employee's exposure through the permissible exposure limit

(PEL). After much research and the continuing exposure of workers to silica, OSHA decided that the current PEL for respirable silica was not sufficient to protect the safety and health of workers. This final rule revises the old PEL and requires that employers use engineering controls to reduce workers' exposure to silica. The new PEL is set at 50 micrograms per meter cubed, which is approximately half of the former PEL in general industry and is a 20 % reduction of the construction industry PEL. Even with this cut in the PEL, OSHA believes a significant risk to employees remains; however, OSHA considers this PEL to be the lowest that can reasonably be achieved in most affected industries.

In addition to the revised PEL, OSHA is requiring the implementation of engineering controls to include wetting the work operations or using ventilation before the use of respirators. The new standard requires the employer to evaluate employee exposures and then based on exposure levels the employer must implement engineering controls and/or work practices. In the construction industry, OSHA has provided a table of construction work practices that employers and required engineering controls or respiratory protection that an employer may use in lieu of determining actual workplace exposures. Work practices that may be necessary, based on employee exposures, include creating a regulated area (general industry only), ensuring the presence of a competent person, conducting medical surveillance and training employees on the hazards of silica. OSHA believes that approximately 676,000 workplaces will be affected across the construction, general, and maritime industries. This will include approximately 2.3 million workers, the majority of which are in the construction industry. OSHA estimates the net benefit of the rule to be between 3.8 and 7.7 billion dollars. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 2 updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. 1926.55, as published in the March 25, 2016 Federal Register, Volume 81, Number 58. This specific amendment revises information in a Table related to silica. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Approximately 676,000 workplaces in the nation are expected to be affected by this final rule which requires employers to implement engineering controls and work practices where employees are exposed to respirable crystalline silica. Engineering controls may include the use of wet work practices or local exhaust ventilation. Work practices may include the designation of a regulated area, use of personal protective equipment, medical surveillance of exposed employees, and hazard training.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The annualized cost of the rule is around 1 billion dollars with the net benefits of the rule around 3.8 -7.7 billion.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R.

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Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in construction industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? OSHA expects the rule to result in annual costs of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor.

(d) How much will it cost to administer this program for subsequent years? OSHA expects the rule to result in annual cost of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: No information was specific to local governments, but estimated expenditures of about 560 dollars were given for smaller firms affected by the regulation.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:404. Personal protective and lifesaving equipment.

RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. 1926.95-1926.107

STATUTORY AUTHORITY: KRS 338.051(3), 338.061
NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. 29 C.F.R 1926.95 to 1926.107 establish the federal requirements relating to personal protective and lifesaving equipment. This administrative regulation establishes personal protective and lifesaving equipment standards to be enforced by the Division of Occupational Safety and Health Compliance in the construction industry.

Section 1. Definitions. (1) "Assistant Secretary" means Secretary of Labor, Kentucky Labor Cabinet or Commissioner of the Department of Workplace Standards.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined in KRS 338.015(2).

(4) "Employer" is defined in KRS 338.015(1).

(5) "OSHA" means the Occupational Safety and Health Administration or the Kentucky Division of Occupational Safety and Health.

Section 2. The construction industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, except as modified by the definitions in Section 1 of this administrative regulation:

(1) 29 C.F.R. 1926.95 through 29 C.F.R. 1926.107, revised July 1, 2015[2013]; and

(2) The amendments to 29 C.F.R. 1926.102 as published in the March 25, 2016 Federal Register, Volume 81, Number 58[The amendments to 29 C.F.R. 1926.97 as published in the April 11, 2014, Federal Register, Volume 79, Number 70].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1926.102. Section 2 also updates the C.F.R. to March 2015 and adopts the amendments published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR

2:404 must be amended to include the adopted changes. The final rule revises and updates the eye and face protection standards for the construction industry.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1910.132-138. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. 1910.132-138 as published in the March 25, 2016 Federal Register, Volume 81, Number 58. This Federal Register incorporates the most recent ANSI eye and face consensus standard and removes the oldest-referenced edition of the same standard. As a result of the adoption of this final rule 803 KAR 2:404 must be amended to include the adopted changes. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are expected from this amendment which simply updates references to national consensus standard for eye and face protection.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA.. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in construction activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84

STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year?

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation:

**LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)**

803 KAR 2:421. 29 C.F.R. Part 1926.950-968.

RELATES TO: KRS Chapter 338, 29 C.F.R. 1926.950 – 968

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health rules, administrative regulations, and standards. This administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. Definitions. (1) "Assistant Secretary" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined by KRS 338.015(2).

(4) "Employer" is defined by KRS 338.015(1).

(5) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

Section 2. Except as modified by the definitions established in Section 1 of this administrative regulation, the construction industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1926.950-1926.967, effective July 1, 2015; and [2014;]

(2) The amendments to 29 C.F.R. 1926 Subpart V as published in the October 5, 2015 Federal Register, Volume 80, Number 192 [The amendments to Subpart V of 29 C.F.R. 1926 as published in the September 24, 2014 Federal Register, Volume 79, Number 185; and

(3) The amendments to Subpart V of 29 C.F.R. 1926 as published in the May 4, 2015 Federal Register, Volume 80, Number 85].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 updates the C.F.R. to July 1, 2015 and establishes the amendments to Subpart V of 1926 as published in the October 5, 2015 Federal Register, Volume 80, Number 192. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR 2:421 must be amended to include the adopted changes. This specific amendment clarifies that line-clearance tree trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment on behalf of an organization that operates, or that controls the operating procedures for those lines or equipment shall comply with 1910.269. This amendment also corrects Table V-5 in 1926.960. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 2 updates the C.F.R. to July 1, 2015 and establishes the amendments to Subpart V of 1926 as published in the October 5, 2015 Federal Register, Volume 80, Number 192. The Kentucky OSH Standards Board adopted the new revision on May 10, 2016. As a result of the adoption of this final rule 803 KAR

2:421 must be amended to include the adopted changes. This specific amendment clarifies that line-clearance tree trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment on behalf of an organization that operates, or that controls the operating procedures for those lines or equipment shall comply with 1910.269. This amendment also corrects Table V-5 in 1926.960, changing "0.50" to read "0.050. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are expected from this amendment to the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As no new compliance duties are expected, no costs are assumed by the employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Since OSHA's amendment did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in construction activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no compliance duties expected with this amendment; therefore, there are no associated costs.

(d) How much will it cost to administer this program for subsequent years? Because no additional compliance duties are required as a result of the revisions, no costs are associated with the amendment of this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.
Expenditures (+/-): Unknown.
Other explanation:

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:425. Toxic and hazardous substances.

RELATES TO: 29 C.F.R. 1926.1101-~~1926.1153~~[~~1926.1152~~]

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.1101 to ~~1926.1153~~[~~1926.1152~~] establish the federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the general standards to be enforced by the Department of Workplace Standards in the construction industry.

Section 1. Definitions. (1) "Assistant secretary" means Secretary, Labor Cabinet or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "Director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

(3) "U.S. Department of Labor" means Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, the construction industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1926.1101 through ~~1926.1153~~[~~1926.1152~~], revised as of July 1, 2015[2014]; and

(2) The amendments to 29 C.F.R. 1926 Subpart Z as published in the March 25, 2016 Federal Register, Volume 81, Number 58[~~The amendments to Subpart Z of 29 C.F.R. 1926 as published in the February 8, 2013 Federal Register, Volume 78, Number 27~~].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1926.1101-1153. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to Subpart Z of 1926 published in the March 25, 2016 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted this amendment on May 10, 2016. As a result of the adoption of the aforementioned this final rule, 803 KAR 2:425 must be amended to include the adopted changes. With the March 25, 2016 final rule, OSHA is adding additional requirements where employees may be exposed to silica. This rule greatly expands upon the previous requirement which only limited an employee's exposure through the permissible exposure limit (PEL). After much research and the continuing exposure of workers to silica, OSHA decided that the current PEL for respirable silica was not sufficient to protect the safety and health of workers. This final rule revises the old PEL and requires that employers use engineering controls to reduce workers' exposure to silica. The new PEL is set at 50 micrograms per meter cubed, which is approximately half of the former PEL in general industry and is a 20 % reduction of the construction industry PEL. Even with this cut in the PEL, OSHA believes a significant risk to employees remains; however, OSHA considers this PEL to be the lowest that can reasonably be achieved in most affected industries. In addition to the revised PEL, OSHA is requiring the implementation of engineering controls to include wetting the work operations or using ventilation before the use of respirators. The new standard requires the employer to evaluate employee exposures and then based on exposure levels the employer must implement engineering controls and/or work practices. In the construction industry, OSHA has provided a table of construction work practices that employers and required engineering controls or respiratory protection that an employer may use in lieu of determining actual workplace exposures. Work practices that may be necessary, based on employee exposures, include creating a regulated area (general industry only), ensuring the presence of a competent person, conducting medical surveillance and training employees on the hazards of silica. OSHA believes that approximately 676,000 workplaces will be affected across the construction, general, and maritime industries. This will include approximately 2.3 million workers, the majority of which are in the construction industry. OSHA estimates the net benefit of the rule to be between 3.8 and 7.7 billion dollars. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: (a) How the amendment will change this existing administrative regulation. Section 2 updates the C.F.R. to July 2015 and establishes the amendments to Subpart Z of 1926 published in the March 25, 2015 Federal Register, Volume 81, Number 58. The Kentucky OSH Standards Board adopted this amendment on May 10, 2016. As a result of the adoption of the aforementioned this final rule 803 KAR 2:425 must be amended to include the adopted changes. This specific amendment adopts the entire federal silica rule as applicable to the construction industry including the requirements to determine employee exposures and

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implement all necessary/applicable engineering controls and work practices. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Approximately 676,000 workplaces in the nation are expected to be affected by this final rule which requires employers to implement engineering controls and work practices where employees are exposed to respirable crystalline silica. Engineering controls may include the use of wet work practices or local exhaust ventilation. Work practices may include the designation of a regulated area, use of personal protective equipment, medical surveillance of exposed employees, and hazard training.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The annualized cost of the rule is around 1 billion dollars with the net benefits of the rule around 3.8 -7.7 billion.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in construction industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? OSHA expects the rule to result in annual costs of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor.

(d) How much will it cost to administer this program for subsequent years? OSHA expects the rule to result in annual cost of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: No information was specific to local governments, but estimated expenditures of about 560 dollars were given for smaller firms affected by the regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:500. Maritime employment.

RELATES TO: KRS 338.015, 29 C.F.R. 1915, 1917, 1918, 1919

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. 29 C.F.R. Parts 1915, 1917, 1918, and 1919 establish federal requirements relating to maritime employment. This administrative regulation establishes maritime employment standards to be enforced by the Department of Workplace Standards in the maritime industry.

Section 1. Definitions. (1) "Administration" means the Kentucky Labor Cabinet or Department of Workplace Standards.

(2) "Assistant secretary" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.

(3) "C.F.R." means Code of Federal Regulations.

(4) "Employee" is defined by KRS 338.015(2).

(5) "Employer" is defined by KRS 338.015(1).

(6) "U.S. Department of Labor" means U.S. Department of Labor or Kentucky Labor Cabinet.

Section 2. Except as modified by the definitions established in Section 1 of this administrative regulation, the maritime industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. Part 1915, revised July 1, 2015[2013], relating to occupational safety and health standards for shipyard employment;

(2) 29 C.F.R. Part 1917, revised July 1, 2015[2013], relating to maritime terminals;

(3) 29 C.F.R. Part 1918, revised July 1, 2015[2013], relating to safety and health regulations for longshoring;

(4) 29 C.F.R. Part 1919, revised July 1, 2015[2013], relating to gear certification; and

(5) The revisions to 29 C.F.R. Parts 1915, 1917, and 1918 as published in the March 25, 2016 Federal Register, Volume 81, Number 58[The revisions to 29 C.F.R. Part 1917 as published in the April 21, 2014 Federal Register, Volume 79, Number 76].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: May 10, 2016

FILED WITH LRC: May 13, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2016 at 10:30 A.M. (EDT) at the Labor Cabinet, 1047 US HWY 127 South, Suite 4, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. Parts 1915, 1917, 1918, and 1919. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. Parts 1915, 1917 and 1918 as published in the March 25, 2016. The Kentucky OSH Standards Board adopted these amendments on May 10, 2016. As a result of the adoption of the two final rules contained in this Federal Register, 803 KAR 2:500 must be amended to include the adopted changes. With the March 25, 2016 silica final rule, OSHA is adding additional requirements where employees may be exposed to silica. This rule greatly expands upon the previous requirement which only limited an employee's exposure through the permissible exposure limit (PEL). After much research and the continuing exposure of workers to silica, OSHA decided that the current PEL for respirable silica was not sufficient to protect the safety and health of workers. This final rule revises the old PEL and requires that employers use engineering controls to reduce workers' exposure to silica. The new PEL is set at 50 micrograms per meter cubed, which is approximately half of the former PEL in general industry and is a 20 % reduction of the construction industry PEL. Even with this cut in the PEL, OSHA believes a significant risk to employees remains; however, OSHA considers this PEL to be the lowest that can reasonably be achieved in most affected industries. In addition to the revised PEL, OSHA is requiring the implementation of engineering controls to include wetting the work operations or using ventilation before the use of respirators. The new standard requires the employer to evaluate employee exposures and then based on exposure levels the employer must implement engineering controls and/or work practices. In the construction industry, OSHA has provided a table of construction work practices that employers and required engineering controls or respiratory protection that an employer may use in lieu of determining actual workplace exposures. Work practices that may be necessary, based on employee exposures, include creating a regulated area (general industry only), ensuring the presence of a competent person, conducting medical surveillance and training employees on the hazards of silica. OSHA believes that approximately 676,000 workplaces will be affected across the construction, general, and maritime industries. This will include approximately 2.3 million workers, the majority of which are in the construction industry. OSHA estimates the net benefit of the rule to be between 3.8 and 7.7 billion dollars.

A second rule was published in the same Federal Register addressing and updating references to national consensus standards for eye and face personal protective equipment. Employers that are currently compliant with the regulation are not expected to have any compliance duties. This rule simply updates references and includes the most recent consensus standards for employers to follow. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 silica final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016. The requirements related to updating references to national consensus standards did not impose any additional or more stringent requirements on employers than the existing standard; therefore,

the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will promote worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1915, 1917, 1918, and 1919. Section 2 also updates the C.F.R. to July 2015 and establishes the amendments to 29 C.F.R. Parts 1915, 1917 add 1918 as published in the March 25, 2016. The Kentucky OSH Standards Board adopted these amendments on May 10, 2016. The specific silica amendment adopts the requirement to comply with the general industry silica rule where maritime work is being performed. The amendment also contains changes to the maritime regulations adopting references to the newest national consensus standards for eye and face protection. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the silica final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements by September 25, 2016. The requirements related to updating references to national consensus standards did not impose any additional or more stringent requirements on employers than the existing standard; therefore, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in maritime industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Approximately 676,000 workplaces in the nation are expected to be affected by this final rule which requires employers to implement engineering controls and work practices where employees are exposed to respirable crystalline silica. Engineering controls may include the use of wet work practices or local exhaust ventilation. Work practices may include

the designation of a regulated area, use of personal protective equipment, medical surveillance of exposed employees, and hazard training. There are no expected compliance requirements resulting from the adopting of the rule to update references to national consensus standards for eye and face protection.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The annualized cost of the silica rule is around 1 billion dollars with the net benefits of the rule around 3.8 -7.7 billion. No costs are associated with the rule updating national consensus standard references to eye and face protection

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection is likely to result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the Program to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 final rule. Kentucky does not have an effective alternative to the silica final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal silica requirements by September 25, 2016. Since OSHA's amendment updating references to personal protective equipment national consensus standards did not impose any additional or more stringent requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the March 25, 2016 silica final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal silica requirements by September 25, 2016. Since OSHA's amendment updating references to personal protective equipment national consensus standards did not impose any additional or more stringent

requirements on employers than the existing standard, the Kentucky Occupational Safety and Health Standards Board was not obligated to adopt this amendment. However, to promote consistency and provide employers and employees with a clear understanding of the requirements, the Kentucky Occupational Safety and Health Standards Board adopted this amendment on May 10, 2016.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendments to the regulation do not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government covered by KRS 338 and engaged in maritime industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? OSHA expects the rule to result in annual costs of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor. No costs are associated with updating references to national consensus standards as no new compliance duties are created.

(d) How much will it cost to administer this program for subsequent years? OSHA expects the rule to result in annual cost of approximately 1,500 dollars to the average workplace covered by the rule. The economic impact of this rule on most affected firms is expected to be minor. No costs are associated with updating references to national consensus standards as no new compliance duties are created.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: No information was specific to local governments, but estimated expenditures of about 560 dollars were given for smaller firms affected by the regulation.

LABOR CABINET
DEPARTMENT OF WORKERS' CLAIMS
(Amendment)

803 KAR 25:089. Workers' compensation medical fee schedule for physicians.

RELATES TO: KRS 342.0011(32), 342.019, 342.020, 342.035
STATUTORY AUTHORITY: KRS 342.020, 342.035(1), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.035(1) requires the commissioner of the Department of Workers' Claims to promulgate administrative regulations to ensure that all fees, charges and reimbursements for medical services under KRS Chapter 342 are limited to charges that are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. KRS 342.035(4) requires the commissioner to promulgate an administrative regulation establishing the workers' compensation medical fee schedule for physicians. Pursuant to KRS 342.035, a schedule of fees is to be reviewed and updated, if appropriate, every two (2) years on July 1. This administrative regulation establishes the medical fee schedule for physicians.

Section 1. Definitions. (1) "Medical fee schedule" means the 2016 Kentucky Workers' Compensation Fee Schedule for Physicians[~~2013 Kentucky Workers' Compensation Schedule of Fees for Physicians~~].

(2) "Physician" is defined by KRS 342.0011(32).

Section 2. Services Covered. (1) The medical fee schedule shall govern all medical services provided to injured employees by physicians under KRS Chapter 342.

(2) The medical fee schedule shall also apply to other health care or medical services providers to whom a listed CPT code is applicable unless:

(a) Another fee schedule of the Department of Workers' Claims applies;

(b) A lower fee is required by KRS 342.035 or a managed care plan approved by the commissioner pursuant to 803 KAR 25:110; or

(c) An insurance carrier, self-insured group, or self-insured employer has an agreement with a physician, medical bill vendor, or other medical provider to provide reimbursement of a medical bill at an amount lower than the medical fee schedule.

Section 3. Fee Computation. (1) The appropriate fee for a procedure covered by the medical fee schedule shall be obtained by multiplying a relative value unit for the medical procedure by the applicable conversion factor; and

(2) The resulting fee shall be the maximum fee allowed for the service provided.

Section 4. (1) A physician or healthcare or medical services provider located outside the boundaries of Kentucky shall be deemed to have agreed to be subject to this administrative regulation if it accepts a patient for treatment who is covered under KRS Chapter 342.

(2) Pursuant to KRS 342.035, medical fees due to an out-of-state physician or healthcare or medical services provider shall be calculated under the fee schedule in the same manner as for an in-state physician.

Section 5. Incorporation by Reference. (1) "2016 Kentucky Workers' Compensation Fee Schedule for Physicians", May 12, 2016[~~"2013 Kentucky Workers' Compensation Schedule of Fees for Physicians", December 1, 2013~~] edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DWIGHT T. LOVAN, Commissioner

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 12, 2016 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, June 22, 2016, at 1:30 p.m. (EDT) at the offices of the Department of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5)

workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person

CONTACT PERSON: Charles E. Lowther, General Counsel, Department of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 782-4464, fax (502) 564-0681.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charles E. Lowther

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates the medical fee schedule for physicians and the requirements for using the fee schedule.

(b) The necessity of this administrative regulation: Pursuant to KRS 342.035, the commissioner is required to promulgate an administrative regulation regarding fee schedules.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation incorporates the extensive fee schedule for physicians and requirements for the fee schedule.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It is imperative to have fee schedules to control the medical costs of the workers' compensation system. Injured employees should receive quality medical care and physicians should be appropriately paid.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: A new medical fee schedule has been completed and will be incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The statute requires the schedule of fees to be reviewed and updated every two (2) years, if appropriate.

(c) How the amendment conforms to the content of the authorizing statutes: The schedule of fees has been appropriately updated to insure that medical fees are fair, current, and reasonable for similar treatment in the same community for general health insurance payments.

(d) How the amendment will assist in the effective administration of the statutes: The schedule of fees assists the workers' compensation program by updating fees for physicians to insure injured workers get qualified and appropriate medical treatment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All physicians and medical providers providing services to injured workers pursuant to KRS Chapter 342, injured employees, insurance carriers, self-insurance groups, and self-insured employers and employers, third party administrators.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Insurance carriers, self-insured groups, self-insured employers, third party administrators, and medical providers must purchase the new schedule of fees to accurately bill and pay for medical services. Other parties to workers' compensation claims are only indirectly impacted by the new fee schedule.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Insurance carriers, self-insured groups, self-insured employers or third party administrators and medical providers can purchase the fee schedule book with disk for \$100 or the disk for \$50.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Medical providers will receive fair, current, and reasonable fees for services provided to injured workers. Injured workers will be treated by qualified medical providers.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The contract for reviewing and updating the physicians fee schedule and all fee schedules is \$67,325.00.

(b) On a continuing basis: No continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation sets forth a current schedule of fees to be paid to physicians. Fees have been updated to be fair, current, and reasonable for similar treatment in the same community as paid by health insurers.

(9) TIERING: Is tiering applied? Tiering is not applied, because the updated fee schedule applies to all parties equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Workers' Claims and all parts of government with employees

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.035

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. As an employer, there may be some increased costs for medical services. It is impossible to estimate not knowing what medical services will be needed by injured workers.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue generated

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No new administrative costs

(d) How much will it cost to administer this program for subsequent years? No new administrative costs

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(Amendment)

902 KAR 4:120. Health Access Nurturing Development Services (HANDS) Program.

RELATES TO: KRS 13B.080-13B.160, 200.700, 211.090, 211.180, 211.689[194A.030(4), 211.690]

STATUTORY AUTHORITY: KRS 194A.050(1), 211.690

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.690 authorizes the Cabinet for Health and Family Services to implement a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period until the child's third birthday. This administrative regulation establishes the eligibility criteria, services, provider qualifications, and hearing rights for participants of the Health Access Nurturing Development Services (HANDS) Program.

Section 1. Definitions. (1) "Department" means the Department for Public Health or its designated representative.

(2) "Family support worker" or "FSW" means a provider's employee or subcontractor who visits participants and performs services.

(3) "HANDS" means Health Access Nurturing Development Services, a voluntary statewide home visitation program[;] for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday as funding is available.

(4) "Participant" means an individual enrolled in the HANDS program and receiving HANDS services.

(5)~~(2)~~ "Authority" means the Early Childhood Development Authority as established in KRS 200.700. (3) "Provider" means a local health department agency subscribing to staff and training requirements, program policies and procedures[~~model~~] and reporting requirements of the HANDS Program and agreeing to participate as a HANDS provider.

~~(4)~~ "Program model" means a model of home visitation that meets the twelve (12) critical elements of home visitation.

(5) "Participant" means an individual who meets the criteria established in Section 2 of this administrative regulation.

(6) "Standardized assessment tool" means the program adopted tool to determine the level of need of the pregnant woman or parent.

(7) "Department" means the Department for Public Health or its designated representative.

(8) "Home visitor" or "family support worker" or "FSW" means

- a:
- (a) High school graduate or holder of a GED who:
 1. Is at least eighteen (18) years of age;
 2. Has received training in:
 - a. Ongoing assessment of family strengths and needs;
 - b. Service plan development;
 - c. Home visiting;
 - d. Coordination of services; and
 - e. Evaluation; and
 3. Is supervised by a public health nurse or licensed social worker;
 - (b) Public health nurse who has a valid Kentucky Board of Nursing license as a registered nurse or advanced registered nurse practitioner; or
 - (c) 1. Licensed social worker who meets the requirements for licensure by the State Board of Examiners of Social Work;
 2. An individual with a masters degree in social work;
 3. A social worker with a bachelor's degree in social work from an accredited institution;
 - (d) A graduate of a four (4) year program in a social or behavioral science or a related field with one (1) year experience

~~performing case management services, except that a master's degree in a human services field may be substituted for the one (1) year experience; or~~

~~(e) An associate degree in an early childhood education field and home visitation model training.]~~

Section 2. Eligibility Criteria. (1) In order to receive a service established in Section 4 of this administrative regulation, an individual shall be:

(a) A pregnant woman who has not reached her 20th birthday[and who will be a first-time parent];

(b) A pregnant woman who is at least twenty (20) years old[; will be a first-time parent] and a risk is deemed likely for the pregnancy or the infant;

(c) An infant or toddler of an individual identified in paragraph (a) or (b) of this subsection, whose family is determined to be at risk and is screened for eligibility within the first twelve (12) weeks of life or no later than ninety (90) days post-birth, up to the[his] third birthday[; of an individual identified in paragraph (a) or (b) of this subsection]; or

~~(d)[A firstborn up to twelve (12) weeks of age whose family is determined to be at risk; or~~

~~(e)] A[first-time] father or guardian of a child identified in paragraph (c)[~~or (d)~~] of this subsection.~~

(2) Participation in the HANDS Program shall be voluntary.

(3) Participation in the HANDS Program shall be prevented or terminated if one (1) of the following occurs:

- (a) Death of the fetus or infant;
- (b) The family elects to withdraw from the program;
- (c) The family moves out of state;
- (d) Contact with the family is lost;
- (e) The family repeatedly fails to participate in program activities; or

~~(f)[Death of the infant; or~~

~~(g)] The goals established for the family are met.~~

~~(4) A screening shall include the following components:~~

(4) Using the ACH-300, Referral Record Screen, a provider shall determine eligibility of an applicant by:

1. Face-to-face interview; or

2. Evaluation of health records;

(b) If an individual's screening indicates eligibility for HANDS services, the individual shall be referred for an assessment; and

(c) If an individual's screening indicates ineligibility for HANDS services, the individual shall be provided with community resource and referral information.

(5) An assessment shall:

(a) Consist of the following components:

1. Using the ACH-302, Parent Survey Summary, and ACH-303, Parent Survey Score Sheet, a comprehensive needs assessment shall be performed by conducting a face-to-face interview with the child, mother, and family to include information regarding each parent's:

- a. Childhood experience;
- b. Lifestyle behaviors and mental health;
- c. Experience and expectations for parenting;
- d. Coping skills;
- e. Support system;
- f. Stress and anger management skills;
- g. Expectations of the infant's developmental milestones and behaviors;

h. Plans for the child's discipline;

i. Perception of the new infant; and

j. Bonding and attachment to the infant; and

2. Arrangement for delivery of needed services;

(b) Be conducted by:

1. A social worker;

2. A registered nurse;

3. A graduate of a four (4) year program in a social or behavioral science, education field, or a related field with one (1) year experience performing case management services, except that a master's degree in a human services field may be substituted for the one (1) year experience; or

4. A graduate with an associate degree in an early childhood

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education field and successful completion of the department's home visitation model training; and

(c) Result in:

1. Eligibility for HANDS services, in which the individual shall be referred for the development of a home visiting plan; or
2. Ineligibility for HANDS services, in which the individual shall be provided with community resource and referral information and general parenting information.

Section 3. Provider Qualifications. (1) A family support worker shall be a:

(a) High school graduate or holder of a GED who:

1. Is at least eighteen (18) years of age;
2. Has received department training in:

- a. Ongoing assessment of family strengths and needs;
- b. Service plan development;
- c. Evidence-based home visiting model;
- d. Coordination of services; and
- e. Evaluation; and

3. Is supervised by a public health nurse or licensed social worker;

(b) Public health nurse who has a valid Kentucky Board of Nursing license as a registered nurse or advanced practice registered nurse;

(c) 1. Licensed social worker who meets the requirements for licensure by the State Board of Examiners of Social Work;

2. Graduate with a master's degree in social work from an accredited institution; or

3. Graduate with a bachelor's degree in social work from an accredited institution;

(d) Graduate of a four (4) year program in a social or behavioral science, education field, or a related field with one (1) year experience performing case management services, except that a master's degree in a human services field may be substituted for the one (1) year experience; or

(e) Graduate with an associate degree in an early childhood education field and successful completion of the department's home visitation model training[A HANDS service shall be provided by a local health department or a subcontractor].

(2) A local health department shall meet the requirements to provide HANDS services if:

(a) Its staff or subcontractor[contractor] receives the required training provided by the department to become a family support worker;

(b) It assures that appropriate staff meet the licensure requirements of the department pursuant to subsection (1)(b) or (c) of this section[1(8)(b) or (c) of this administrative regulation];

(c) It assures supervision by licensed personnel pursuant to subsection (1)(b) or (c) of this section[1(8)(b) and (c) of this administrative regulation];

(d) It reports program data into the online HANDS database no later than the first Sunday of the month following the date of service [on a schedule as directed by the department]; and

(e) It abides by [meets] the policies of the HANDS program[twelve (12) critical elements of home visitation programs].

Section 4. Services.[- The HANDS Program shall consist of the following services:] (1)[Screening. A screening shall include the following components:

(a) Using the standardized screening tool, a provider shall determine eligibility of an applicant by:

1. Face-to-face interview; or
2. Evaluation of health records.

(b) If an individual's screening indicates eligibility for additional HANDS services, the individual shall be referred for an assessment to a social worker or a registered nurse, employed directly or contracted by the department; and

(c) If an individual's screening indicates ineligibility for additional HANDS services, the individual shall be provided with community resource and referral information;

(2) Assessment.

(a) An assessment shall consist of the following components:

1. A comprehensive needs assessment, obtained by

conducting a face-to-face interview with the child, mother, and family, to include information regarding the parent's:

- a. Childhood experience;
- b. Lifestyle behaviors and mental health;
- c. Experience and expectations for parenting;
- d. Coping skills;
- e. Support system;
- f. Stress and anger management skills;
- g. Expectations of the infant's developmental milestones and behaviors;
- h. Plans for the child's discipline;
- i. Perception of the new infant; and
- j. Bonding and attachment to the infant.

2. Arrangement for delivery of needed services, as determined by the assessment;

(b) An assessment shall be conducted by:

1. A social worker;
2. A registered nurse;

3. A graduate of a four (4) year program in a social or behavioral science or a related field with one (1) year experience performing case management services, except that a master's degree in a human services field may be substituted for the one (1) year experience; or

4. An associate degree in an early childhood education field and home visitation model training.

(c) If an assessment of an individual results in a determination that the individual meets one (1) of the criteria in Section 2(3) of this administrative regulation, home visitation services established in subsection (3) of this section shall not be provided.

(3) Home visitation may take place in the client's home or another community site if justified in the record. A home visitation shall include the following:

(a) Monitoring of the child's, mother's, and family's progress by:

1. Making referrals to community resources;
2. Tracking appointments to ensure they are being kept;
3. Performing follow-up services as identified by the provider; and

4. Performing periodic evaluations of the participant's changing needs;

(b) The preparation and maintenance of case records which shall be documented with contacts, services needed, reports, and progress;

(c) Consultations with the parent or primary caregiver on positive pregnancy outcomes, optimal child growth and development, health and safe homes, and family decision making and self-sufficiency; and

(d) Crisis assistance.

(2)(a)(4) Service frequency shall be provided in accordance with the level of need of the parent or family pursuant to ACH-306, Parent Completion LEVELS; and[-]

(b)(5) The frequency of visitation shall be lessened as the family meets goals agreed to by the provider and the participant.

(3)(6) Between the second and third birthday, home visitation services shall be limited to a child whose family does not progress beyond Level I of ACH-306, Parent Completion LEVELS[the assessment tool].

Section 5. Appeal Rights. (1) A provider shall notify an individual who does not meet criteria for admission or continuation in the program or who has had a service discontinued, in writing, within ten (10) days of the denial or discontinuance.

(2) An individual wishing to appeal an adverse action by the agency shall notify the department[,-] within thirty (30) days of the date of the notice identified in subsection (1) of this section that [he requests] a hearing is requested.

(3) Notice of an administrative hearing shall be provided in accordance with KRS 13B.050.

(4) The administrative hearing process shall be conducted in accordance with KRS 13B.080 through 13B.160.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

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- (a) ~~"ACH-300, Referral Record Screen", 5/2016[Twelve (12) Critical Elements of Home Visitation Programs];~~
- (b) ~~"ACH-301, Consent for Services", 5/2016[Referral Record Screen Consent Form (ACH-301), 7/00 edition];~~
- (c) ~~"ACH-302, Parent Survey Summary", 5/2016[HANDS Screening Tool, 5/1/00 edition];~~
- (d) ~~"ACH-303, Parent Survey Score Sheet", 5/2016[HANDS Assessment Tool, 5/1/00 edition]; and~~
- (e) ~~"ACH-306, Parent Completion LEVELS", 5/2016[Levels form]; and~~
- (f) ~~Every Child Succeeds Screening and Assessment Tool, 3/8/00 edition].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, first floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

KRAIG HUMBAUGH, MD, MPH, Senior Deputy Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: May 4, 2016

FILED WITH LRC: May 10, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40602, phone 502-564-7905, fax 502-564-7573, Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation contains the requirements for a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period until the child's third birthday. This administrative regulation establishes the eligibility criteria, services, provider qualifications, and hearing rights of participants of the Health Access Nurturing Development Services (HANDS) Program.

(b) The necessity of this administrative regulation: KRS 211.690 established within the Cabinet for Health and Family Services the HANDS Program. The Kentucky Department for Public Health was designated to be the state agency to apply for federal funding from the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV). This administrative regulation contains how this program is to operate and is necessary for the assistance of currently 10,604 Kentucky families.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.690 established within the Cabinet for Health and Family Services the HANDS Program as a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday. The statute required the program to operate in cooperation with the Cabinet and the local public health departments, whose employees or subcontractors provide these services. The HANDS program does include an educational

component on the recognition and prevention of pediatric abusive head trauma that is required for all HANDS staff. And participants express informed consent to participate by written agreement on a form incorporated by reference in this administrative regulation, pursuant to the statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation contains all of the requirements for the HANDS Program and establishes the eligibility criteria, services, provider qualifications, and hearing rights for participants.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current regulation requires participants to be a "first-time parent". This amendment will continue the expansion of the HANDS program to more counties and all at-risk parents as KRS 211.690 intends, instead of serving only first-time parents. Federal MIECHV funding in the amount of \$17 million was also applied for and granted for the purpose of serving multi-gravida families. A graduate of a 4-year program with an education degree is added to the list of qualifying home visitors or supervisors in order to provide flexibility and an increased pool of potential applicants for the local health departments when hiring supervisors of HANDS home visitors. Also, the current regulation is almost fifteen years old; therefore, new versions of forms are incorporated and reformatting was necessary to be in compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative: This program has already received state and federal funding to continue the expansion of the HANDS program to all at-risk families, as intended by statute. This amendment clarifies that the increased funding is spent in this way.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.690 requires the Cabinet to establish the HANDS Program for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday. Until recently, there was not enough funding to offer this program to all at-risk families, so it was limited to first-time parents. Now, with the state and federal funding provided, this amendment makes this program consistent with the statute.

(d) How the amendment will assist in the effective administration of the statutes:

Once this amendment is effective, the HANDS program will provide assistance to all at-risk families who volunteer for the program as intended in KRS 211.690, helping to ensure safer and healthier first years of life for children in the Commonwealth.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 10,604 families participating in this program, receiving aid from local health department providers to raise safer and healthier children. The program is currently limited to first-time parent participants, but will be able to include many more with the allotted funding and this amendment which opens the program to all at-risk families. This program also affects the Kentucky Department for Public Health and local health department agencies, as they operate and maintain this program. There are currently approximately 500 health department employees acting as home visitors and supervisors in this program. HANDS services are also an example of targeted case management and covered by Medicaid, although the program costs nothing to Kentucky Medicaid.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Many more at-risk families will be able to participate in this voluntary assistance program as a result of this amendment. This amendment also slightly opens the eligibility of being a home visitor or supervisor, allowing local health departments more eligible applicants to choose from to operate the

program.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): There is no cost to local health departments. HANDS is a fee for service program with each health department receiving a basic allocation to support their infrastructure. The federal and state funding has already been allotted and received for this program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Many more at-risk families will be able to participate in this voluntary program focused on ensuring a safer and healthier home for children. Many children will benefit as a result of this amendment.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This program is already in operation. The current state general fund Tobacco Settlement Funds are earmarked for this program and will be used for the federal Medicaid match, thus leveraging funds to meet the demand. Additional monies were granted in the FY15-16 budget for expanding services to multi-gravida families and that is part of the Department's base funding. The Department also receives a MIECHV federal grant to provide these services to multi-gravida families, therefore this money has already been obtained and allotted for this purpose, as required by KRS 211.690.

(b) On a continuing basis: State general fund Tobacco Settlement Funds are earmarked for this program and will be used for the federal Medicaid match, thus leveraging funds to meet the demand. Additional monies were granted in the FY15-16 budget for expanding services to multi-gravida families and that is part of the Department's base funding. The Department also receives a MIECHV federal grant to provide these services to multi-gravida families, therefore this money has already been obtained and allotted for this purpose, as required by KRS 211.690.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: HANDS is a multi-source funded program: General Funds added to the Department base (13%), Master Agreement Tobacco Funds earmarked for this program (21%), Federal Grant Funds (19%), and Federal Medicaid (47%). Formula federal grant, from which all states receive funds based upon a Department of Health and Human Services developed methodology: Kentucky received \$1,712,449 for FY15-16, which supports 14 high need counties; and, a competitive grant awarded to Kentucky originally in FY13, according to a blind review of grant proposals. These funds expanded HANDS to an additional 64 high need counties. Kentucky received a total of \$15,103,729 which ends September, 2016. In June 2015, an additional \$2,038,542 was awarded to assist states in transitioning to the end of this grant. The FY15-16 state budget included state general revenue of \$6,600,000 to offset the loss of federal competitive funds and continue the expansion of HANDS to all at-risk parents and this money is now in the Department base funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in fees or funding is not necessary to implement this administrative regulation. This regulation is being amended as a result of having already obtained additional funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? No. This administrative regulation is applicable to all at-risk parents of children under 3 years of age.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This program currently serves 78 high-need counties in Kentucky, resulting in

approximately 500 local health department employees acting as home visitors or supervisors of this program. The expansion of this program will affect local health departments and the Kentucky Department for Public Health, although funding has already been allotted and obtained.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.690 established the HANDS Program as a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? Per budget, this program operates with \$9 million Master Tobacco Agreement funds earmarked for this program, \$6.6 million general funds in the Department's base funding, \$8.1 million federal grants, and a 70%/30% federal Medicaid match for Medicaid participants. General Funds added to the Department base (13%), Master Agreement Tobacco Funds earmarked for this program (21%), Federal Grant Funds (19%), and Federal Medicaid (47%).

(d) How much will it cost to administer this program for subsequent years? This program operates with \$9 million Master Tobacco Agreement funds earmarked for this program, \$6.6 million general funds in the Department's base funding, \$8.1 million federal grants, and a 70%/30% federal Medicaid match for Medicaid participants. General Funds added to the Department base (13%), Master Agreement Tobacco Funds earmarked for this program (21%), Federal Grant Funds (19%), and Federal Medicaid (47%).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

- Revenues (+/-):
Expenditures (+/-):
Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 100:030. Quantities of radioactive material requiring labeling.

RELATES TO: KRS 211.842-211.852, 211.990(4), 10 C.F.R. Part 20

STATUTORY AUTHORITY: KRS 194.050(1), 211.090, 211.180(1), 211.844(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844(1) requires[authorizes] the Cabinet for Health and Family Services[Human Resources] to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation adopts[provides for] quantity requirements for the labeling of radioactive material licensed under

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902 KAR Chapter 100 [This administrative regulation shall apply to persons licensed as authorized by 902 KAR 100:017, 902 KAR 100:022, 902 KAR 100:040, 902 KAR 100:041, 902 KAR 100:045, 902 KAR 100:050, 902 KAR 100:052, 902 KAR 100:058, 902 KAR 100:065, 902 KAR 100:073, 902 KAR 100:090, 902 KAR 100:100, 902 KAR 100:142, 902 KAR 100:165, and 902 KAR 100:170].

Section 1. Quantities [Table]. 10 C.F.R. Part 20 Appendix C [The following table] provides the quantities of radioactive material requiring labeling as set forth in 902 KAR 100:019.[:

Quantities of Radioactive Material Requiring Labeling			
Radionuclide	Quantity (μCi)*	Radionuclide (μCi)*	Quantity
Hydrogen-3	1,000	Chromium-48	1,000
Beryllium-7	1,000	Chromium-49	1,000
Beryllium-10	1	Chromium-51	1,000
Carbon-11	1,000	Manganese-51	1,000
Carbon-14	1,000	Manganese-52m	1,000
Fluorine-18	1,000	Manganese-52	100
Sodium-22	10	Manganese-53	1,000
Sodium-24	100	Manganese-54	100
Magnesium-28	100	Manganese-56	1,000
Aluminum-26	10	Iron-52	100
Silicon-31	1,000	Iron-55	100
Silicon-32	1	Iron-59	10
Phosphorus-32	10	Iron-60	1
Phosphorus-33	100	Cobalt-55	100
Sulfur-35	100	Cobalt-56	10
Chlorine-36	10	Cobalt-57	100
Chlorine-38	1,000	Cobalt-58m	1,000
Chlorine-39	1,000	Cobalt-58	100
Argon-39	1,000	Cobalt-60m	1,000
Argon-41	1,000	Cobalt-60	1
Potassium-40	100	Cobalt-61	1,000
Potassium-42	1,000	Cobalt-62m	1,000
Potassium-43	1,000	Nickel-56	100
Potassium-44	1,000	Nickel-57	100
Potassium-45	1,000	Nickel-59	100
Calcium-41	100	Nickel-63	100
Calcium-45	100	Nickel-65	1,000
Calcium-47	100	Nickel-66	10
Scandium-43	1,000	Copper-60	1,000
Scandium-44m	100	Copper-61	1,000
Scandium-44	100	Copper-64	1,000
Scandium-46	10	Copper-67	1,000
Scandium-47	100	Zinc-62	100
Scandium-48	100	Zinc-63	1,000
Scandium-49	1,000	Zinc-65	10
Titanium-44	1	Zinc-69m	100
Titanium-45	1,000	Zinc-69	1,000
Vanadium-47	1,000	Zinc-71m	1,000
Vanadium-48	100	Zinc-72	100
Vanadium-49	1,000	Gallium-65	1,000
Gallium-66	100	Krypton-81	1,000
Gallium-67	1,000	Krypton-83m	1,000
Gallium-68	1,000	Krypton-85m	1,000
Gallium-70	1,000	Krypton-85	1,000
Gallium-72	100	Krypton-87	1,000
Gallium-73	1,000	Krypton-88	1,000
Germanium-66	1,000	Rubidium-79	1,000
Germanium-67	1,000	Rubidium-81m	1,000
Germanium-68	10	Rubidium-81	1,000
Germanium-69	1,000	Rubidium-82m	1,000
Germanium-71	1,000	Rubidium-83	100
Germanium-75	1,000	Rubidium-84	100
Germanium-77	1,000	Rubidium-86	100
Germanium-78	1,000	Rubidium-87	100

Arsenic-69	1,000	Rubidium-88	1,000
Arsenic-70	1,000	Rubidium-89	1,000
Arsenic-71	100	Strontium-80	100
Arsenic-72	100	Strontium-81	1,000
Arsenic-73	100	Strontium-83	100
Arsenic-74	100	Strontium-85m	1,000
Arsenic-76	100	Strontium-85	100
Arsenic-77	100	Strontium-87m	1,000
Arsenic-78	1,000	Strontium-89	100
Selenium-70	1,000	Strontium-90	0.1
Selenium-73m	1,000	Strontium-91	100
Selenium-73	100	Strontium-92	100
Selenium-75	100	Yttrium-86m	1,000
Selenium-79	100	Yttrium-86	100
Selenium-81m	1,000	Yttrium-87	100
Selenium-81	1,000	Yttrium-88	10
Selenium-83	1,000	Yttrium-90m	1,000
Bromine-74m	1,000	Yttrium-90	10
Bromine-74	1,000	Yttrium-91m	1,000
Bromine-75	1,000	Yttrium-91	10
Bromine-76	100	Yttrium-92	100
Bromine-77	1,000	Yttrium-93	100
Bromine-80	1,000	Yttrium-94	1,000
Bromine-80	1,000	Yttrium-95	1,000
Bromine-82	100	Zirconium-86	100
Bromine-83	1,000	Zirconium-88	10
Bromine-84	1,000	Zirconium-89	100
Krypton-74	1,000	Zirconium-93	1
Krypton-76	1,000	Zirconium-95	10
Krypton-77	1,000	Zirconium-97	100
Krypton-79	1,000	Niobium-88	1,000
Niobium-89	1,000	Palladium-101	1,000
Niobium-89m (66 min)	1,000	Palladium-103	100
Niobium-89 (122 min)	1,000	Palladium-107	10
Niobium-89	1,000	Palladium-109	100
Niobium-90	100	Silver-102	1,000
Niobium-90	100	Silver-103	1,000
Niobium-93m	10	Silver-104m	1,000
Niobium-94	1	Silver-104	1,000
Niobium-95m	100	Silver-105	100
Niobium-95	100	Silver-106m	100
Niobium-96	100	Silver-106	1,000
Niobium-97	1,000	Silver-108m	1
Niobium-98	1,000	Silver-110m	10
Molybdenum-90	100	Silver-111	100
Molybdenum-93m	100	Silver-112	100
Molybdenum-93	10	Silver-115	1,000
Molybdenum-99	100	Cadmium-104	1,000
Molybdenum-101	1,000	Cadmium-107	1,000
Technetium-93m	1,000	Cadmium-109	1
Technetium-93	1,000	Cadmium-113m	0.1
Technetium-94m	1,000	Cadmium-113	100
Technetium-94	1,000	Cadmium-115m	10
Technetium-96m	1,000	Cadmium-115	100
Technetium-96	100	Cadmium-117m	1,000
Technetium-97m	100	Cadmium-117	1,000
Technetium-97	1,000	Indium-109	1,000
Technetium-98	10	Indium-110	1,000
Technetium-99m	1,000	(69.1m)	
Technetium-99	100	Indium-110	1,000
Technetium-101	1,000	(4.9h)	
Technetium-104	1,000	Indium-111	100
Ruthenium-94	1,000	Indium-112	1,000
Ruthenium-97	1,000	Indium-113m	1,000
Ruthenium-103	100	Indium-114m	10
Ruthenium-105	1,000	Indium-115m	1,000

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Ruthenium-106	1	Indium-115	100
Rhodium-99m	1,000	Indium-116m	1,000
Rhodium-99	100	Indium-117m	1,000
Rhodium-100	100	Indium-117	1,000
Rhodium-101m	1,000	Indium-119m	1,000
Rhodium-101	10	Tin-110	100
Rhodium-102m	10	Tin-111	1,000
Rhodium-102	10	Tin-113	100
Rhodium-103m	1,000	Tin-117m	100
Rhodium-105	100	Tin-119m	100
Rhodium-106m	1,000	Tin-121m	100
Rhodium-107	1,000	Tin-121	1,000
Palladium-100	100	-	
Tin-123m	1,000	Tellurium-133	1,000
Tin-123	10	Tellurium-134	1,000
Tin-125	10	Iodine-120m	1,000
Tin-126	10	Iodine-120	100
Tin-127	1,000	Iodine-121	1,000
Tin-128	1,000	Iodine-123	100
Antimony-115	1,000	Iodine-124	10
Antimony-116m	1,000	Iodine-125	1
Antimony-116	1,000	Iodine-126	1
Antimony-117	1,000	Iodine-128	1,000
Antimony-118m	1,000	Iodine-129	1
Antimony-119	1,000	Iodine-130	10
Antimony-120 (16m)	1,000	Iodine-131	1
Antimony-120 (5.76d)	100	Iodine-132m	100
Antimony-122	100	Iodine-133	10
Antimony-124m	1,000	Iodine-134	1,000
Antimony-124	10	Iodine-135	100
Antimony-125	100	Xenon-120	1,000
Antimony-126m	1,000	Xenon-121	1,000
Antimony-126	100	Xenon-122	1,000
Antimony-127	100	Xenon-123	1,000
Antimony-128 (10.4m)	1,000	Xenon-125	1,000
Antimony-128 (9.01h)	100	Xenon-127	1,000
Antimony-129	100	Xenon-129m	1,000
Antimony-130	1,000	Xenon-131m	1,000
Antimony-131	1,000	Xenon-133m	1,000
Tellurium-116	1,000	Xenon-133	1,000
Tellurium-121m	10	Xenon-135m	1,000
Tellurium-121	100	Xenon-135	1,000
Tellurium-123m	10	Xenon-138	1,000
Tellurium-123	100	Cesium-125	1,000
Tellurium-125m	10	Cesium-127	1,000
Tellurium-127m	10	Cesium-129	1,000
Tellurium-127	1,000	Cesium-130	1,000
Tellurium-129m	10	Cesium-131	1,000
Tellurium-129	1,000	Cesium-132	100
Tellurium-131m	10	Cesium-134m	1,000
Tellurium-131	100	Cesium-134	10
Tellurium-132	10	Cesium-135m	1,000
Tellurium-133m	100	Cesium-135	100
Barium-126	1,000	Cesium-136	10
Barium-128	100	Cesium-137	10
Barium-131m	1,000	Cesium-137	10
Barium-131	100	Cesium-138	1,000
Barium-133m	100	Promethium-141	1,000
Barium-133	100	Promethium-143	100
Barium-135m	100	Promethium-144	10
Barium-139	1,000	Promethium-145	10
		Promethium-146	1
		Promethium-147	10
		Promethium-148m	10
		Promethium-148	10

Barium-140	100	Promethium-149	100
Barium-141	1,000	Promethium-150	1,000
Barium-142	1,000	Promethium-151	100
Lanthanum-131	1,000	Samarium-141m	1,000
Lanthanum-132	100	Samarium-141	1,000
Lanthanum-135	1,000	Samarium-142	1,000
Lanthanum-137	10	Samarium-145	100
Lanthanum-138	100	Samarium-146	1
Lanthanum-140	100	Samarium-147	100
Lanthanum-141	100	Samarium-151	10
Lanthanum-142	1,000	Samarium-153	100
Lanthanum-143	1,000	Samarium-155	1,000
Cerium-134	100	Samarium-156	1,000
Cerium-135	100	Europium-145	100
Cerium-137m	100	Europium-146	100
Cerium-137	1,000	Europium-147	100
Cerium-139	100	Europium-148	10
Cerium-141	100	Europium-149	100
Cerium-143	100	Europium-150	100
Cerium-144	1	(12.62h)	
Praseodymium-136	1,000	Europium-150 (34.2y)	1
Praseodymium-137	1,000	Europium-152m	100
Praseodymium-138m	1,000	Europium-152	1
Praseodymium-139	1,000	Europium-154	1
Praseodymium-142m	1,000	Europium-155	10
Praseodymium-142	100	Europium-156	100
Praseodymium-143	100	Europium-157	100
Praseodymium-144	1,000	Europium-158	1,000
Praseodymium-145	100	Gadolinium-145	1,000
Praseodymium-147	1,000	Gadolinium-146	10
Neodymium-136	1,000	Gadolinium-147	100
Neodymium-138	100	Gadolinium-148	0.001
Neodymium-139m	1,000	Gadolinium-149	100
Neodymium-139	1,000	Gadolinium-151	10
Neodymium-141	1,000	Gadolinium-152	100
Neodymium-147	100	Gadolinium-153	10
Neodymium-149	1,000	Gadolinium-159	100
Neodymium-151	1,000	Ytterbium-162	1,000
Terbium-147	1,000	Ytterbium-166	100
Terbium-149	100	Ytterbium-167	1,000
Terbium-150	1,000	Ytterbium-169	100
Terbium-151	100	Ytterbium-175	100
Terbium-153	1,000	Ytterbium-177	1,000
Terbium-154	100	Ytterbium-178	1,000
Terbium-155	1,000	Lutetium-169	100
Terbium-156m (5.0h)	1,000	Lutetium-170	100
Terbium-156m (24.4h)	1,000	Lutetium-171	100
Terbium-156	100	Lutetium-172	100
Terbium-157	100	Lutetium-173	10
Terbium-158	1	Lutetium-174m	10
Terbium-158	1	Lutetium-174	10
Terbium-160	10	Lutetium-176m	1,000
Terbium-161	100	Lutetium-176	100
Dysprosium-155	1,000	Lutetium-177m	10
Dysprosium-157	1,000	Lutetium-177	100
Dysprosium-159	100	Lutetium-179m	1,000
Dysprosium-165	1,000	Lutetium-178	1,000
Dysprosium-166	100	Lutetium-179	1,000
Holmium-155	1,000	Hafnium-170	100
Holmium-157	1,000	Hafnium-172	1
Holmium-159	1,000	Hafnium-173	1,000
Holmium-161	1,000	Hafnium-175	100
Holmium-162m	1,000	Hafnium-177m	1,000

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Holmium-162	1,000	Hafnium-178m	0.1
Holmium-164m	1,000	Hafnium-179m	10
Holmium-164	1,000	Hafnium-180m	1,000
Holmium-166m	1	Hafnium-181	10
Holmium-166	100	Hafnium-182m	1,000
Holmium-167	1,000	Hafnium-182	0.1
Erbium-161	1,000	Hafnium-183	1,000
Erbium-165	1,000	Hafnium-184	100
Erbium-169	100	Tantalum-172	1,000
Erbium-171	100	Tantalum-173	1,000
Erbium-172	100	Tantalum-174	1,000
Thulium-162	1,000	Tantalum-175	1,000
Thulium-166	100	Tantalum-176	100
Thulium-167	100	Tantalum-177	1,000
Thulium-170	10	Tantalum-178	1,000
Thulium-171	10	Tantalum-179	100
Thulium-172	100	Tantalum-180m	1,000
Thulium-173	100	Tantalum-180	100
Thulium-175	1,000	Tantalum-182m	1,000
Tantalum-182	10	Iridium-188	100
Tantalum-183	100	Iridium-189	100
Tantalum-184	100	Iridium-190m	1,000
Tantalum-185	1,000	Iridium-190	100
Tantalum-186	1,000	Iridium-192m	10
Tungsten-176	1,000	(1.4m)	
Tungsten-177	1,000	Iridium-192	1
Tungsten-178	1,000	(73.8d)	
Tungsten-179	1,000	Iridium-194m	10
Tungsten-181	1,000	Iridium-194	100
Tungsten-185	100	Iridium-195m	1,000
Tungsten-187	100	Iridium-195	1,000
Tungsten-188	10	Platinum-186	1,000
Rhenium-177	1,000	Platinum-188	100
Rhenium-178	1,000	Platinum-189	1,000
Rhenium-181	1,000	Platinum-191	100
Rhenium-182 (12.7h)	1,000	Platinum-193m	100
		Platinum-193	1,000
Rhenium-182 (64.0h)	100	Platinum-195m	100
		Platinum-197m	1,000
Rhenium-184m	10	Platinum-197	100
Rhenium-184	100	Platinum-199	1,000
Rhenium-186m	10	Platinum-200	100
Rhenium-186	100	Gold-193	1,000
Rhenium-187	1,000	Gold-194	100
Rhenium-188m	1,000	Gold-195	10
Rhenium-188	100	Gold-198m	100
Rhenium-189	100	Gold-198	100
Osmium-180	1,000	Gold-199	100
Osmium-181	1,000	Gold-200m	100
Osmium-182	100	Gold-200	1,000
Osmium-185	100	Gold-201	1,000
Osmium-189m	1,000	Mercury-193m	100
Osmium-191m	1,000	Mercury-193	1,000
Osmium-191	100	Mercury-194	1
Osmium-193	100	Mercury-195m	100
Osmium-194	1	Mercury-195	1,000
Iridium-182	1,000	Mercury-197m	100
Iridium-184	1,000	Mercury-197	1,000
Iridium-185	1,000	Mercury-199m	1,000
Iridium-186	100	Mercury-203	100
Iridium-187	1,000	-	
Thallium-194m	1,000	Francium-223	100
Thallium-194	1,000	Radium-223	0.1
Thallium-195	1,000	Radium-224	0.1
Thallium-197	1,000	Radium-225	0.1
Thallium-198m	1,000	Radium-226	0.1

Thallium-198	1,000	Radium-227	1,000
Thallium-199	1,000	Radium-228	0.1
Thallium-200	1,000	Actinium-224	1
Thallium-201	1,000	Actinium-225	0.01
Thallium-202	100	Actinium-226	0.1
Thallium-204	100	Actinium-227	0.001
Lead-195m	1,000	Actinium-228	1
Lead-198	1,000	Thorium-226	10
Lead-199	1,000	Thorium-227	0.01
Lead-200	100	Thorium-228	0.001
Lead-201	1,000	Thorium-229	0.001
Lead-202m	1,000	Thorium-230	0.001
Lead-202	10	Thorium-231	100
Lead-203	1,000	Thorium-232	100
Lead-205	100	Thorium-234	10
Lead-209	1,000	Thorium-natural	100
Lead-210	0.01	Protactinium-227	10
Lead-211	100	Protactinium-228	1
Lead-212	1	Protactinium-230	0.1
Lead-214	100	Protactinium-231	0.001
Bismuth-200	1,000	Protactinium-232	1
Bismuth-201	1,000	Protactinium-233	100
Bismuth-202	1,000	Protactinium-234	100
Bismuth-203	100	Uranium-230	0.01
Bismuth-205	100	Uranium-231	100
Bismuth-206	100	Uranium-232	0.001
Bismuth-207	10	Uranium-233	0.001
Bismuth-210m	0.1	Uranium-234	0.001
Bismuth-210	1	Uranium-235	0.001
Bismuth-212	10	Uranium-236	0.001
Bismuth-213	10	Uranium-237	100
Bismuth-214	100	Uranium-238	100
Polonium-203	1,000	Uranium-239	1,000
Polonium-205	1,000	Uranium-240	100
Polonium-207	1,000	Uranium-natural	100
Polonium-210	0.1	Neptunium-232	100
Astatine-207	100	Neptunium-233	1,000
Astatine-211	10	Neptunium-234	100
Radon-220	1	Neptunium-235	100
Radon-222	1	Neptunium-236	0.001
Francium-222	100	(1.15E+5y)	
Neptunium-236 (22.5h)	1	Curium-242	0.01
		Curium-243	0.001
Neptunium-237	0.001	Curium-244	0.001
Neptunium-238	10	Curium-245	0.001
Neptunium-239	100	Curium-246	0.001
Neptunium-240	1,000	Curium-247	0.001
Plutonium-234	10	Curium-248	0.001
Plutonium-235	1,000	Curium-249	1,000
Plutonium-236	0.001	Berkelium-245	100
Plutonium-237	100	Berkelium-246	100
Plutonium-238	0.001	Berkelium-247	0.001
Plutonium-239	0.001	Berkelium-249	0.1
Plutonium-240	0.001	Berkelium-250	10
Plutonium-241	0.01	Californium-244	100
Plutonium-242	0.001	Californium-246	1
Plutonium-243	1,000	Californium-248	0.01
Plutonium-244	0.001	Californium-249	0.001
Plutonium-245	100	Californium-250	0.001

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Americium-237	1,000	Californium-251	0.001
Americium-238	100	Californium-252	0.001
Americium-239	1,000	Californium-253	0.1
Americium-240	100	Californium-254	0.001
Americium-241	0.001	Einsteinium-250	100
Americium-242m	0.001	Einsteinium-251	100
Americium-242	10	Einsteinium-253	0.1
Americium-243	0.001	Einsteinium-254m	1
Americium-244m	100	Einsteinium-254	0.01
Americium-244	10	Fermium-252	1
Americium-245	1,000	Fermium-253	1
Americium-246m	1,000	Fermium-254	10
Americium-246	1,000	Fermium-255	1
Curium-238	100	Fermium-257	0.01
Curium-240	0.1	Mendelevium-257	10
Curium-241	1	Mendelevium-258	0.01
Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001	Any radionuclide other than alpha-emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01

Section 2. Combination of radionuclides. If [NOTES: For purposes where] there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows:

(1) Determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination; and

(2) The sum of the ratios for all radionuclides in the combination shall not exceed one (1) [“1” that is], or unity.

[The quantities listed above were derived by taking 1/10th of the most restrictive ALI listed in Table I, Columns 1 and 2, of 902 KAR 100:019 Section 44, rounding to the nearest factor of 10, and constraining the values listed between 0.001 and 1,000 µCi (37 Bq and 37 MBq). Values of 100 µCi (3.7 MBq) have been assigned for radionuclides having a radioactive half life in excess of 1.0E+09 years, except rhenium, 1,000 µCi (37 MBq), to take into account their low specific activity.

*To convert µCi to kBq, multiply the µCi value by 37.]

KRAIG HUMBAUGH, MD, MPH, Senior Deputy Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: May 4, 2016

FILED WITH LRC: May 10, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40602, phone 502-564-7905, Fax 502-564-7573, Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation adopts the federal requirements for quantities of radioactive material that require labeling.

(b) The necessity of this administrative regulation: This administrative regulation provides the federal regulation that contains the quantities of radioactive material that require labeling for Kentucky’s radioactive material licensees. As an Agreement State with the authority to operate its radiation program, the Kentucky Department for Public Health, Radiation Health Branch, is required to maintain a compatible set of regulations to those of the U.S. Nuclear Regulatory Commission which govern the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth. 10 C.F.R. Part 20, Appendix C, contains the federal requirements that Kentucky must be consistent with. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By referencing the federal standards, affected licensees are given the most up-to-date list of quantities of radioactive material that must be labeled. As a result, affected entities do not have inconsistent state and federal requirements during the time that it takes the Cabinet to amend the state regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current administrative regulation has a list of radioactive material quantities that require labeling that was last updated in 1994. Instead of constantly going through the regulation promulgation process to update this list, the federal rule that contains the most up-to-date quantity requirements, 10 C.F.R. Part 20, is being referenced. As a result, affected entities may see the current requirement instead of finding inconsistencies between state and federal requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarity on what amounts of radioactive materials require labeling and eliminates the current inconsistency with federal requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. As a result, the Cabinet is responsible for maintaining counterpart regulations to those of the federal government. This amendment results in conformity between state and federal regulations.

(d) How the amendment will assist in the effective administration of the statutes: Once the amendment is effective, Kentucky regulation will reference the most up-to-date list of

radioactive material quantities requiring labeling instead of containing outdated quantities. This provides clarity to the licensees affected by this regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation currently affects no individuals or entities in the Commonwealth as there are no manufacturers of radioactive material that requires labeling at this time. However, as an Agreement State, the Kentucky Department for Public Health, Radiation Health Branch, is required to maintain a compatible set of regulations to those of the U.S. Nuclear Regulatory Commission which govern the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: There are currently no regulated entities affected by this administrative regulation, therefore no action is required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): No action is required.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No action is required.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This program is already operating. There is no cost to implement this administrative regulation.

(b) On a continuing basis: This program is already operating. There is no cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment does not affect funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: No increase in fees or funding is associated with this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied? No. All radioactive material licensees are subject to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Department for Public Health, Radiation Health Branch, will be impacted by this administrative regulation as it contains reference to the federal regulation. There are no new requirements.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials. 10 C.F.R. Part 20, Appendix C, contains these federal requirements that Kentucky must be consistent with.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for

the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation generates no revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation generates no revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation does not add costs to the agency.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation does not add costs to the agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Energy Policy Act of 2005 and 10 C.F.R. Part 20.

2. State compliance standards. This regulation adopts the federal standards for quantities of radioactive material requiring labeling.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires state regulations to be compatible with the equivalent federal regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no different, stricter, or additional responsibilities or requirements.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 100:080. Exempt quantities.

RELATES TO: KRS 211.842-211.852, 211.990(4), 10 C.F.R. 30.71

STATUTORY AUTHORITY: KRS 194.050(1), 211.090, 211.180(1), 211.844(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services[~~Human Resources~~] is required[~~authorized~~] by KRS 211.844(1) to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation adopts[~~provides~~] a list of quantities of specific radionuclides that[~~which~~] are exempted from the requirements of 902 KAR Chapter 100[~~these administrative regulations~~].

Section 1. Applicability. This administrative regulation exempts certain quantities of radionuclides from the requirements of the cabinet's radiation administrative regulations.

Section 2. Quantities[~~Table~~]. Except as provided in other applicable provisions of 902 KAR Chapter 100[~~these administrative regulations~~], a person is exempt from the requirements established in 902 KAR Chapter 100 to the extent that the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in individual quantities not in excess of those listed in 10 C.F.R. 30.71 Schedule B[~~the~~

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following table:

Radioactive Material	Micro-curies	Radioactive Material	Micro-curies
Antimony-122	100	Osmium-185	10
Antimony-124	10	Osmium-m	100
Antimony-125	10	Osmium-191	100
Arsenic-73	100	Osmium-193	100
Arsenic-74	10	Palladium-103	100
Arsenic-76	10	Palladium-109	100
Arsenic-77	100	Phosphorous-32	10
Barium-131	10	Platinum-191	100
Barium-133	10	Platinum-193m	100
Barium-140	10	Platinum-193	100
Bismuth-210	1	Platinum-197m	100
Bromine-82	10	Platinum-197	100
Cadmium-109	10	Polonium-210	0.1
Cadmium-115m	10	Potassium-42	10
Cadmium-115	100	Potassium-43	10
Calcium-45	10	Praseodymium-142	100
Calcium-47	10	Praseodymium-143	100
Carbon-14	100	Promethium-147	10
Cerium-141	100	Promethium-149	10
Cerium-143	100	Rhenium-186	100
Cerium-144	1	Rhenium-188	100
Cesium-129	100	Rhodium-103m	100
Cesium-131	1,000	Rhodium-105	100
Cesium-134m	100	Rubidium-81	10
Cesium-134	1	Rubidium-86	10
Cesium-135	10	Rubidium-87	10
Cesium-136	10	Ruthenium-97	100
Cesium-137	10	Ruthenium-103	10
Chlorine-36	10	Ruthenium-105	10
Chlorine-38	10	Ruthenium-106	1
Chromium-51	1,000	Samarium-151	10
Cobalt-57	100	Samarium-153	100
Cobalt-58m	10	Scandium-46	10
Cobalt-58	10	Scandium-47	100
Cobalt-60	1	Scandium-48	10
Copper-64	100	Selenium-75	10
Dysprosium-165	10	Silicon-31	100
Dysprosium-166	100	Silver-105	10
Erbium-169	100	Silver-110m	1
Erbium-171	100	Silver-111	100
Europium-152 (9.2h)	100	Sodium-22	10
Europium-152 (13 yr-)	1	Sodium-24	10
Europium-154	1	Strontium-85	10
Europium-155	10	Strontium-89	1
Fluorine-18	1,000	Strontium-90	0.1
Gadolinium-153	10	Strontium-91	10
Gadolinium-159	100	Strontium-92	10
Gallium-67	100	Sulfur-35	100
Gallium-72	10	Tantalum-182	10
Germanium-68	10	Technetium-96	10
Germanium-71	100	Technetium-97m	100
Gold-195	10	Technetium-97	100
Gold-198	100	Technetium-99m	100
Gold-199	100	Technetium-99	10
Hafnium-181	10	Tellurium-125m	10
Holmium-166	100	Tellurium-127m	10
Hydrogen-3	1,000	Tellurium-129m	10
Indium-111	100	Tellurium-129	100
Indium-113m	100	Tellurium-131m	10
Indium-114m	10	Tellurium-132	10
Indium-115m	100	Terbium-160	10
		Thallium-200	100

Indium-115	10	Thallium-201	100
Iodine-123	100	Thallium-202	100
Iodine-125	1	Thallium-204	10
Iodine-126	1	Thulium-170	10
Iodine-129	0.1	Thulium-171	10
Iodine-131	1	Tin-113	10
Iodine-132	10	Tin-125	10
Iodine-133	1	Tungsten-181	10
Iodine-134	10	Tungsten-185	10
Iodine-135	10	Tungsten-187	100
Iridium-192	10	Vandium-48	10
Iridium-194	100	Xenon-131m	1,000
Iron-52	10	Xenon-133	100
Iron-55	100	Xenon-135	100
Iron-59	10	Ytterbium-175	100
Krypton-85	100	Yttrium-87	10
Krypton-87	10	Yttrium-88	10
Lanthanum-140	10	Yttrium-90	10
Lutetium-177	100	Yttrium-91	10
Manganese-52	10	Yttrium-92	100
Manganese-54	10	Yttrium-93	100
Manganese-56	10	Zinc-65	10
Mercury-197m	100	Zinc-69m	100
Mercury-197	100	Zinc-69	1,000
Mercury-203	10	Zirconium-93	10
Molybdenum-99	100	Zirconium-95	10
Neodymium-147	100	Zirconium-97	10
Neodymium-149	100	A _____ radioactive material not listed above other than alpha emitting radioactive material	0.1]
Nickel-59	100		
Nickel-63	10		
Nickel-65	100		
Niobium-93m	10		
Niobium-95	10		
Niobium-97	10		

KRAIG HUMBAUGH, MD, MPH, Senior Deputy Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 29, 2016

FILED WITH LRC: May 10, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40602, phone 502-564-7905, fax 502-564-7573, Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation adopts the list of quantities of specific radionuclides which are exempted from the requirements of 902

KAR Chapter 100.

(b) The necessity of this administrative regulation: This administrative regulation provides the federal regulation that contains the quantities of radioactive material that are exempted from Kentucky's radiation program requirements. As an Agreement State with the authority to operate its radiation program, the Department for Public Health, Radiation Health Branch, is required to maintain a compatible set of regulations to those of the U.S. Nuclear Regulatory Commission which govern the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth. 10 C.F.R. 30.71, Schedule B, contains the federal exemption limits that Kentucky must be consistent with. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By referencing the federal standards, affected licensees are given the most up-to-date list of quantities of radioactive material that are exempted from requirements. As a result, affected entities do not have inconsistent state and federal requirements during the time that it takes the Cabinet to amend the state regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current administrative regulation has a list of radioactive material quantities that are exempt from 902 KAR Chapter 100 requirements that was last updated in 1992. Instead of constantly going through the regulation promulgation process to update this list, the federal rule that contains the most up-to-date quantity requirements, 10 C.F.R. 30.71, Schedule B, is being referenced. As a result, affected entities may see the current exemptions instead of finding inconsistencies between state and federal requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarity on what amounts of radioactive materials are exempt and eliminates the current inconsistency with federal requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. As a result, the Cabinet is responsible for maintaining counterpart regulations to those of the federal government. This amendment results in conformity between state and federal regulations.

(d) How the amendment will assist in the effective administration of the statutes: Once the amendment is effective, Kentucky regulation will reference the most up-to-date list of exempt radioactive material quantities instead of containing outdated quantities. This provides clarity to the licensees affected by 902 KAR Chapter 100 regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects 386 specific licensees and 147 general licensees although it adds no new requirements. If these entities possess radioactive material less than the quantities listed, they are exempt from 902 KAR Chapter 100 requirements.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: No action is required. If entities are affected by this administrative regulation, they will be exempt from other radioactive material requirements. This amendment results in no change in regulation applicability.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): There is no cost of compliance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Being exempt from radioactive material requirements may result in cost savings to an entity, but this amendment does not result in a change in applicability.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This program is already operating. There is no cost to implement this administrative regulation.

(b) On a continuing basis: This program is already operating. There is no cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment does not affect funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: No increase in fees or funding is associated with this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied? No. This administrative regulation affects all radioactive materials licensees subject to 902 KAR Chapter 100 regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Department for Public Health, Radiation Health Branch, will be impacted by this administrative regulation as it contains reference to the federal regulation. There are no new requirements.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials. 10 C.F.R. 30.71, Schedule B, contains these federal requirements that Kentucky must be consistent with.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation generates no revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation generates no revenue.

(c) How much will it cost to administer this program for the first

year? This administrative regulation does not add costs to the agency.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation does not add costs to the agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Energy Policy Act of 2005 and 10 C.F.R. 30.71.

2. State compliance standards. This regulation adopts the federal standards for quantities of radioactive material exempt from requirements.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires state regulations to be compatible with the equivalent federal regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no different, stricter, or additional responsibilities or requirements.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 100:085. Exempt concentrations.

RELATES TO: KRS 211.842-211.852, 211.990(4), 10 C.F.R. 30.70

STATUTORY AUTHORITY: KRS[13B.170,] 194A.050(1), 211.090(3), 211.180(1), 211.844(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844(1) requires the Cabinet for Health and Family Services to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation[,] and to regulate the handling and disposal of radioactive waste. This administrative regulation adopts[establishes] a list of concentrations for specific radionuclides that[which] are exempted from the requirements of 902 KAR Chapter 100.

Section 1. Applicability. This administrative regulation exempts certain concentrations of radionuclides from the requirements of the cabinet's radiation administrative regulations.

Section 2. Concentrations.[Table. (1) In the following table values in Column I are for materials normally used as gases. Values in Column II are equivalent values for microcuries per gram if applicable to solids.

(2) Except as provided in other applicable provisions of 902 KAR Chapter 100, a person is exempt from the requirements established in 902 KAR Chapter 100 if the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in 10 C.F.R. 30.70 Schedule A, [the following table:

EXEMPT CONCENTRATIONS			
Element (atomic Number)	Isotopes	Column I Gas concentration uCi/ml	Column II Liquid and Solid concentration uCi/ml

Antimony (51)	Sb-122	-	3x10 ⁻⁴
	Sb-124		2x10 ⁻⁴
	Sb-125		1x10 ⁻³
Argon (18)	Ar-37	1x10 ⁻³	-
	Ar-41	4x10 ⁻⁷	
Arsenic (33)	As-73	-	5x10 ⁻³
	As-74		5x10 ⁻⁴
	As-76		2x10 ⁻⁴
	As-77		8x10 ⁻⁴
Barium (56)	Ba-131	-	2x10 ⁻³
	Ba-140		3x10 ⁻⁴
Beryllium (4)	Be-7	-	2x10 ⁻²
Bismuth (83)	Bi-206	-	4x10 ⁻⁴
Bromine (35)	Br-82	4x10 ⁻⁷	3x10 ⁻³
Cadmium (48)	Cd-109	-	2x10 ⁻³
	Cd-115m		3x10 ⁻⁴
	Cd-115		3x10 ⁻⁴
Calcium (20)	Ca-45	-	9x10 ⁻⁵
	Ca-47		5x10 ⁻⁴
Carbon (6)	C-14	1x10 ⁻⁶	8x10 ⁻³
Cesium (55)	Ce-141	-	9x10 ⁻⁴
	Ce-143		4x10 ⁻⁴
	Ce-144		1x10 ⁻⁴
Cesium (55)	Cs-131	-	2x10 ⁻²
	Cs-134m		6x10 ⁻²
	Cs-134		9x10 ⁻⁵
Chlorine (17)	Cl-38	9x10 ⁻⁷	4x10 ⁻³
Chromium (24)	Cr-51	-	2x10 ⁻²
Cobalt (27)	Co-57	-	5x10 ⁻³
	Co-58		1x10 ⁻³
	Co-60		5x10 ⁻⁴
Copper (29)	Cu-64	-	3x10 ⁻³
Dysprosium (66)	Dy-165	-	4x10 ⁻³
	Dy-166		4x10 ⁻⁴
Erbium (68)	Er-169	-	9x10 ⁻⁴
	Er-171		1x10 ⁻³
Europium (63)	Eu-152	-	6x10 ⁻⁴
	(9.2 h)		2x10 ⁻³
	Eu-155		
Fluorine (9)	F-18	2x10 ⁻⁶	8x10 ⁻³
Gadolinium (64)	Gd-153	-	2x10 ⁻³
	Gd-159		8x10 ⁻⁴
Gallium (31)	Ga-72	-	4x10 ⁻⁴
Germanium (32)	Ge-71	-	2x10 ⁻²
Gold (79)	Au-196	-	2x10 ⁻³
	Au-198		5x10 ⁻⁴
	Au-199		2x10 ⁻²
Hafnium (72)	Hf-181	-	7x10 ⁻⁴
Hydrogen (1)	H-3	5x10 ⁻⁶	3x10 ⁻²
Indium (49)	In-113m	-	1x10 ⁻²
	In-114m		2x10 ⁻⁴
Iodine (53)	I-126	3x10 ⁻⁹	2x10 ⁻⁵
	I-131	3x10 ⁻⁹	2x10 ⁻⁵
	I-132	8x10 ⁻⁹	6x10 ⁻⁴
	I-133	1x10 ⁻⁹	7x10 ⁻⁵
	I-134	2x10 ⁻⁷	1x10 ⁻³
Iridium (77)	Ir-190	-	2x10 ⁻³
	Ir-192		4x10 ⁻³
	Ir-194		3x10 ⁻⁴
Iron (26)	Fe-55	-	8x10 ⁻³
	Fe-59		6x10 ⁻⁴
Krypton (36)	Kr-85m	1x10 ⁻⁶	-
	Kr-85	3x10 ⁻⁶	
Lanthanum (57)	La-140	-	2x10 ⁻⁴
Lead (82)	Pb-203	-	4x10 ⁻³
Lutetium (71)	Lu-177	-	1x10 ⁻³
Manganese (25)	Mn-52	-	3x10 ⁻⁴
	Mn-54		1x10 ⁻³
	Mn-56		1x10 ⁻³

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Mercury (80)	Hg-197m	-	2x10 ⁻³
	Hg-197		3x10 ⁻³
	Hg-203		2x10 ⁻⁴
Molybdenum (42)	Mo-99	-	2x10 ⁻²
Neodymium (60)	Nd-147	-	6x10 ⁻⁴
	Nd-149		3x10 ⁻³
Nickel (28)	Ni-65	-	1x10 ⁻²
Niobium (Columbium) (41)	Nb-95	-	1x10 ⁻³
	Nb-97		9x10 ⁻³
Osmium (76)	Os-185	-	7x10 ⁻⁴
	Os-191m		3x10 ⁻²
	Os-191		2x10 ⁻²
	Os-193		6x10 ⁻⁴
Palladium (46)	Pd-103	-	3x10 ⁻³
	Pd-109		9x10 ⁻⁴
Phosphorus (15)	P-32	-	2x10 ⁻⁴
Platinum (78)	Pt-191	-	1x10 ⁻³
	Pt-193m		1x10 ⁻²
	Pt-197m		1x10 ⁻²
	Pt-197		1x10 ⁻³
Potassium (19)	K-42	-	3x10 ⁻³
Praseodymium (59)	Pr-142	-	3x10 ⁻⁴
	Pr-143		5x10 ⁻⁴
Promethium (61)	Pm-147	-	2x10 ⁻³
	Pm-149		4x10 ⁻⁴
Rhenium (75)	Re-183	-	6x10 ⁻³
	Re-186		9x10 ⁻⁴
	Re-188		6x10 ⁻⁴
Rhodium (45)	Rh-103m	-	1x10 ⁻¹
	Rh-105		1x10 ⁻²
Rubidium (37)	Rb-86	-	7x10 ⁻⁴
Ruthenium (44)	Ru-97	-	4x10 ⁻³
	Ru-103		8x10 ⁻⁴
	Ru-105		1x10 ⁻³
	Ru-106		1x10 ⁻⁴
Samarium (62)	Sm-153	-	8x10 ⁻⁴
Scandium (21)	Sc-46	-	4x10 ⁻⁴
	Sc-47		9x10 ⁻⁴
	Sc-48		3x10 ⁻⁴
Selenium (34)	Se-75	-	3x10 ⁻³
Silicon (14)	Si-31	-	9x10 ⁻³
Silver (47)	Ag-105	-	1x10 ⁻³
	Ag-110m		3x10 ⁻⁴
	Ag-111		4x10 ⁻⁴
Sodium (11)	Na-24	-	2x10 ⁻³
Strontium (38)	Sr-85	-	1x10 ⁻³
	Sr-89		1x10 ⁻⁴
	Sr-91		7x10 ⁻⁴
	Sr-92		7x10 ⁻⁴
Sulfur (16)	S-35	9x10 ⁻⁵	6x10 ⁻⁴
Tantalum (73)	Ta-182	-	4x10 ⁻⁴
Technetium (43)	Tc-96m	-	1x10 ⁻¹
	Tc-96		1x10 ⁻²
Tellurium (52)	Te-125m	-	2x10 ⁻³
	Te-127m		6x10 ⁻⁴
	Te-127		3x10 ⁻³
	Te-129m		3x10 ⁻⁴
	Te-131m		6x10 ⁻⁴
	Te-132		3x10 ⁻⁴
Terbium (65)	Tb-160	-	4x10 ⁻⁴
Thallium (81)	Tl-200	-	4x10 ⁻³
	Tl-201		3x10 ⁻³
	Tl-202		1x10 ⁻³
	Tl-204		1x10 ⁻³
Thulium (69)	Tm-170	-	5x10 ⁻⁴
	Tm-171		5x10 ⁻³
Tin (50)	Sn-113	-	9x10 ⁻⁴
	Sn-125		2x10 ⁻⁴
Tungsten (Wolfram) (74)	W-181	-	4x10 ⁻³
	W-187		7x10 ⁻⁴

Vanadium (23)	V-48	-	3x10 ⁻⁴
Xenon (54)	Xe-131m	4x10 ⁻⁶	-
	Xe-133	3x10 ⁻⁶	
	Xe-135	1x10 ⁻⁶	
Ytterbium (70)	Yb-175	-	1x10 ⁻³
Yttrium (39)	Y-90	-	2x10 ⁻⁴
	Y-91m		3x10 ⁻²
	Y-91		3x10 ⁻⁴
	Y-92		6x10 ⁻⁴
Zinc (30)	Y-93		3x10 ⁻⁴
	Zn-65	-	1x10 ⁻³
	Zn-69m		7x10 ⁻⁴
Zirconium (40)	Zn-69		2x10 ⁻²
	Zr-95	-	6x10 ⁻⁴
Beta or gamma emitting radioactive material not listed above with half-life less than 3 years	Zr-97	-	2x10 ⁻⁴
	-	1x10 ⁻¹⁰	1x10 ⁻⁶

Section 3. The Combination of Radionuclides[2. Special Cases]. The following applies to the combination of nuclides:

(1) In expressing the concentrations in Section 2[1] of this administrative regulation, the activity stated is that of the parent nuclide and takes into account the daughters; and

(2) For purposes of 902 KAR 100:045, Section 3, if a combination of nuclides is involved, the limit for the combination shall be derived by determining, for each nuclide in the product, the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in Section 2[1] of this administrative regulation for the specific nuclide if not in combination. The sum of the ratios shall[~~may~~] not exceed one (1), or unity.

KRAIG HUMBAUGH, MD, MPH, Senior Deputy Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: May 4, 2016

FILED WITH LRC: May 10, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation through June 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40602, phone 502-564-7905, fax 502-564-7573, Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation adopts the list of concentrations of specific radionuclides which are exempted from the requirements of 902 KAR Chapter 100.

(b) The necessity of this administrative regulation: This

administrative regulation provides the federal regulation that contains the concentrations of radioactive material that are exempted from Kentucky's radiation program requirements. As an Agreement State with the authority to operate its radiation program, the Department for Public Health, Radiation Health Branch, is required to maintain a compatible set of regulations to those of the U.S. Nuclear Regulatory Commission which govern the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth. 10 C.F.R. 30.70, Schedule A, contains the federal exemption limits that Kentucky must be consistent with. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By referencing the federal standards, affected licensees are given the most up-to-date list of concentrations of radioactive material that are exempted from requirements. As a result, affected entities do not have inconsistent state and federal requirements during the time that it takes the Cabinet to amend the state regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current administrative regulation has a list of radioactive material concentrations that are exempt from 902 KAR Chapter 100 requirements that was last updated in 2000. Instead of constantly going through the regulation promulgation process to update this list, the federal rule that contains the most up-to-date quantity requirements, 10 C.F.R. 30.70, Schedule A, is being referenced. As a result, affected entities may see the current exemptions instead of finding inconsistencies between state and federal requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarity on what concentrations of radioactive materials are exempt and eliminates the current inconsistency with federal requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. As a result, the Cabinet is responsible for maintaining counterpart regulations to those of the federal government. This amendment results in conformity between state and federal regulations.

(d) How the amendment will assist in the effective administration of the statutes:

Once the amendment is effective, Kentucky regulation will reference the most up-to-date list of exempt radioactive material concentrations instead of containing outdated concentrations. This provides clarity to the licensees affected by 902 KAR Chapter 100 regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects 386 specific licensees and 147 general licensees, although there are no new requirements. If these entities possess radioactive material less than the concentrations listed, they are exempt from 902 KAR Chapter 100 requirements.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: No action is required. If entities are affected by this administrative regulation, they will be exempt from other radioactive material requirements. This amendment results in no change in regulation applicability.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): There is no cost of compliance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Being exempt from radioactive material requirements may result in cost savings to an entity, but this amendment does not result in a change in applicability.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This program is already operating. There is no cost to implement this administrative regulation.

(b) On a continuing basis: This program is already operating. There is no cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment does not affect funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: No increase in fees or funding is associated with this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied? No. This administrative regulation affects all radioactive materials licensees subject to 902 KAR Chapter 100 regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Department for Public Health, Radiation Health Branch, will be impacted by this administrative regulation as it contains reference to the federal regulation. There are no new requirements.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials. 10 C.F.R. 30.70, Schedule A, contains these federal requirements that Kentucky must be consistent with.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation generates no revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation generates no revenue.

(c) How much will it cost to administer this program for the first

year? This administrative regulation does not add costs to the agency.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation does not add costs to the agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Energy Policy Act of 2005 and 10 C.F.R. 30.70.

2. State compliance standards. This regulation adopts the federal standards for concentrations of radioactive material exempt from requirements.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires state regulations to be compatible with the equivalent federal regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no different, stricter, or additional responsibilities or requirements.

NEW ADMINISTRATIVE REGULATIONS

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
(Repealer)

200 KAR 30:051. Repeal of 200 KAR 30:050 and 200 KAR 30:060.

RELATES TO: KRS Chapter 164

STATUTORY AUTHORITY: KRS 164.6905(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.6905 authorizes the Office of Occupations and Professions to promulgate administrative regulations that are necessary to carry out the provisions of KRS 164.6901 to 164.6935. This administrative regulation repeals 200 KAR 30:050 and 200 KAR 30:060. These administrative regulations are being repealed because the authorizing statute, KRS 164.687(3), was repealed by the Kentucky General Assembly in 2003. These administrative regulations are therefore obsolete.

Section 1. The following administrative regulations are hereby repealed:

- (1) 200 KAR 30:050, Reinstatement; and
- (2) 200 KAR 30:060, Annual contact report.

WILLIAM L. BROWN, Executive Director

JOHN MARCUS JONES, Assistant Attorney General

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, June 29, 2016 at 9:00 a.m., local time, at the Kentucky Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Thursday, June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601. phone (502) 696-5635, fax (502) 696-3925.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 200 KAR 30:050, Reinstatement; and 200 KAR 30:060, Annual contact report. These administrative regulations are obsolete due to the repeal of KRS 164.697(3) by the Kentucky General Assembly eliminating reinstatements for registrations and the requirement for the filing of an annual contact report.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to remove the regulations requiring reinstatement and annual contact reports now that the Kentucky General Assembly has removed the requirements from statutes.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 164.6905(3) authorizes

the Office to promulgate regulations necessary to carry out the provisions of KRS 164.6901 to 164.6935.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the efficient operation of the registration of athlete agents by removing regulations and requirements that are no longer supported in the provisions of KRS 164.6901 to 164.6935.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation repeals two (2) administrative regulations that are no longer supported by the provisions of KRS 164.6901 to 164.6935.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There are no costs to repealing regulations 201 KAR 30:050 and 201 KAR 30:060.

(a) Initially: The budget for the Office is \$38,000 annual. It will not cost the administrative body any additional funds to implement the repeal of these administrative regulations.

(b) On a continuing basis: The budget for the Office is estimated to continue to have a budget of \$38,000 annual. It will not cost the administrative body any additional funds to implement the repeal of these administrative regulations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The office's operation is funded by fees paid by the registered athlete agents and applicants for new registrations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this repeal of administrative regulations.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees. The fees assessed to applicants for registration and renewals are established in KRS 164.6915.

(9) Tiering: Is tiering applied? No. This is a repealer of two (2) regulations that are no longer supported by the provisions of KRS 164.6901 to 164.6935.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Occupations and Professions is the administrative body regulating the Uniform Athlete Agents Act pursuant to KRS 164.6905.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.6905 authorizes the Office of Occupations and Professions to repeal administrative regulations relating to the provisions of KRS 164.6901 to 164.6935.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for registration for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for registration for the subsequent years.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Repealer)

704 KAR 3:471. Repeal of 704 KAR 3:470.

RELATES TO: KRS 157.390, 161.028
STATUTORY AUTHORITY: KRS 161.1211

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation repeals administrative regulation 704 KAR 3:470, Ranking of certified personnel. At the time of its promulgation, the Education Professional Standards Board lacked the authority to promulgate administrative regulations related to the ranking of certified personnel. With the passage of KRS 161.1211, statutory authority was granted to the Education Professional Standards Board to promulgate administrative regulation on ranking of certified personnel, making 704 KAR 3:470 unnecessary.

Section 1. 704 KAR 3:470, Ranking of certified school personnel, is hereby repealed.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner of Education
ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: May 12, 2016
FILED WITH LRC: May 13, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2016, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is

open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation repeals 704 KAR 3:470, Ranking of certified school personnel.

(b) The necessity of this administrative regulation: 704 KAR 3:470 should be repealed as authority to promulgate administrative regulations ranking certified personnel now lies with the Kentucky Education Professional Standards Board pursuant to KRS 161.1211.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation repeals 704 KAR 3:470.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repeals 704 KAR 3:470.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statute: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky certified teachers and Kentucky public school districts.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: Pursuant to KRS 161.1211, the Kentucky Education Professional Standards Board has controlled ranking of certified school personnel since 2000. Therefore, the entities described above will see no direct impact as a result of this repeal.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the entities described above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): With repeal of 704 KAR 3:470, certified personnel and school districts will not be confused by conflicting regulations or authority on ranking of certified personnel.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: no cost

(a) Initially: no cost

(b) On a continuing basis: no cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No cost.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative

regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all certified personnel.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453; KRS 158.6455

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Amendment adds no additional costs.

(d) How much will it cost to administer this program for subsequent years? Amendment adds no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Regulation does not generate revenue or establish fees.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Repealer)

780 KAR 4:031. Repeal of 780 KAR 4:030.

RELATES TO: KRS 156.802

STATUTORY AUTHORITY: KRS 156.802

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.802(3) requires the Kentucky Board of Education to establish program standards for secondary area vocational education and technology centers. Program standards for middle/high schools, local career and technical education centers, and area technology centers are established in 705 KAR 4:231, General program standards for secondary career and technical education programs. Because the program standards are established in 705 KAR 4:231, the existence of 780 KAR 4:030 is redundant and unnecessary. This administrative regulation repeals 780 KAR 4:030.

Section 1. 780 KAR 4:030, Standards for secondary programs, is hereby repealed.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner of Education
ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2016, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 780 KAR 4:030, which states that Kentucky Tech schools shall operate in compliance with 705 KAR 4:231, which provides general program standards for secondary career and technical education programs.

(b) The necessity of this administrative regulation: The repeal of 780 KAR 4:030 eliminates redundancies within the agency's regulatory scheme.

(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 156.802 gives the Kentucky Department of Education the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area technology centers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation simplifies regulatory language, eliminates redundancies and confusion, and increases efficiency of the agency and career and technical education programs.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statute: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: State-operated area technology centers in Kentucky, as well as supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The repeal will impact the area technology centers and the Kentucky Department of Education by eliminating confusion and unnecessary regulatory language.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to the schools,

districts or the Kentucky Department of Education.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The area technology centers will experience a more simplified scheme of regulatory requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Additional costs are not anticipated.

(b) On a continuing basis: Additional costs are not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Additional costs are not anticipated.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? State-operated area technology centers.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.802

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Regulation does not generate revenue or establish fees.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Repealer)

780 KAR 7:071. Repeal of 780 KAR 7:070.

RELATES TO: KRS 56.070-56.180, 156.852

STATUTORY AUTHORITY: KRS 156.852

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.852 authorizes the Kentucky Board of Education to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by KRS 156.850. 780 KAR 7:070 established operating procedures relative to equipment insurance. The need for the administrative regulation is still

apparent, however there are two (2) administrative regulations currently addressing equipment for vocational education. The language from 780 KAR 7:070 will be merged into 780 KAR 7:060, to create one (1) comprehensive administrative regulation governing operating procedures relative to equipment for vocational education in the commonwealth. Combining the two (2) administrative regulations will simplify the regulatory scheme, increase administrative efficiency, and provide clarity to career and technical education programs. This administrative regulation repeals 780 KAR 7:070.

Section 1. 780 KAR 7:070, Equipment insurance, is hereby repealed.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner of Education

ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: May 12, 2016

FILED WITH LRC: May 13, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2016, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 780 KAR 7:070, which establishes operating procedures relative to equipment for state-operated secondary area technology centers.

(b) The necessity of this administrative regulation: The repeal of 780 KAR 7:070 eliminates redundancies and assists with the simplification of the agency's regulatory scheme within Title 780. 780 KAR 7:060 addresses equipment inventories for the state-operated area technology centers. The intention is to amend 780 KAR 7:060 to include pertinent information from 780 KAR 7:070 related to equipment insurance.

(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 56.070 requires the Finance and Administration Cabinet to determine state property to be insured through the state fire and tornado insurance fund. KRS 156.852 gives the Kentucky Department of Education the authorization to carry out the purposes of the program of career and technical education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation simplifies regulatory language, eliminates redundancies and confusion, and increases efficiency of the agency and career and technical education programs.

(2) If this is an amendment to an existing administrative

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regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statute: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: State-operated area technology centers in Kentucky, as well as supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The repeal will impact the area technology centers and the Kentucky Department of Education by eliminating confusion and unnecessary regulatory language.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to the schools, districts or the Kentucky Department of Education.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The area technology centers will experience a more simplified scheme of regulatory requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Additional costs are not anticipated.

(b) On a continuing basis: Additional costs are not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Additional costs are not anticipated.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Regulation does not generate revenue or establish fees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? State-operated area technology centers.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 56.070-56.180, 156.852

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of May 10, 2016

Call to Order and Roll Call

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 10, 2016, at 1 p.m. in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the April 2016 meeting were approved.

Present were:

Members: Senators Ernie Harris; and Julie Raque-Adams and Representatives Linda Belcher, Mary Lou Marzian, and Tommy Turner.

LRC Staff: Sarah Amburgey, Ange Bertholf, Emily Caudill, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

Guests: Becky Gilpatrick, Kentucky Higher Education Assistance Authority; Jeff Boler, Mile Grammer, Department of Revenue, Finance and Administration Cabinet; Morgan Ransdell, Board of Nursing; William Adcock, Florence Huffman, Brian Judy, Board of Social Work; Nicole Biddle, Board of Prosthetics, Orthotics, and Pedorthics; Angela Dunham, Department of Corrections; Mark Oerther, Board of Home Inspectors; Duane Curry, Jared Downs, Tim House, Steve Milby, Department of Housing, Buildings and Construction.

The Administrative Regulation Review Subcommittee met on Tuesday, May 10, 2016, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Higher Education Assistance Authority

11 KAR 4:080. Student aid applications. Becky Gilpatrick, director of student aid services, represented the division.

KHEAA Grant Programs

11 KAR 5:145. CAP grant award determination procedure.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:050. Miscellaneous Taxes Forms manual. Jeff Boler, resource management analyst, and Mike Grammer, assistant director, Division of Miscellaneous Taxes, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a citation; and (2) to amend Sections 1, 6, 9, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Nursing: Board

201 KAR 20:240. Fees for applications and for services. Morgan Ransdell, attorney, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to correct citations. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Co-Chair Harris regarding 201 KAR 20:520, which was deferred pursuant to KRS 13A.280(4)(b) to the June 14 meeting of the Subcommittee, Mr. Ransdell stated that the telehealth requirements were established as authorized by, and to comply with, the statute.

Board of Social Work: Board

201 KAR 23:070. Qualifying education and qualifying experience under supervision. William Adcock, chair; Florence Huffman, executive director; and Brian Judy, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Ms. Huffman stated that electronic supervision was conducted by the supervisor-of-record discussing matters such as diagnoses and treatment plans with the supervisee via electronic means. Electronic supervision may be used in lieu of a face-to-face, physical meeting for those seeking licensure as a licensed clinical social worker.

In response to a question by Representative Belcher, Ms. Huffman stated that participants in the program were expected to appreciate the electronic supervision provisions because meeting compliance would be easier, even under adverse weather conditions or in cases of long distances.

A motion was made and seconded to approve the following amendments: to amend the TITLE; NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 4 and Sections 7 through 10; and the Clinical Social Work Supervision Contract to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Prosthetics, Orthotics and Pedorthics: Board

201 KAR 44:021. Repeal of 201 KAR 44:020 and 201 KAR 44:030. Nicole Biddle, assistant attorney general, represented the board.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:170. Green River Correctional Complex. Angela Dunham, attorney, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend GRCC 25-01-02 to clarify procedures for release notifications; (2) to amend GRCC 10-01-01, 13-08-01, and 18-04-01 to make minor technical corrections; and (3) to amend Section 1 to update the edition dates of the revised policies. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the Subcommittee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Home Inspectors: Board

815 KAR 6:010. Home inspector licensing requirements and maintenance of records. Brian Judy, assistant attorney general, and Mark Oerther, chair, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to establish that the passport photograph shall be taken within the past six (6) months; (2) to amend Sections 1 through 5, 8, 11, and 12 to comply with the drafting requirements of KRS Chapter 13A; (3) to amend Section 12 and the material incorporated by reference to revise forms to comply with the drafting requirements of KRS Chapter 13A; and (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:040. Home inspector prelicensing providers.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 7 to revise the form incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:080. Continuing education provider.

A motion was made and seconded to approve the following

amendments: (1) to amend the TITLE and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to revise the forms incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:090. Procedures for complaints and administrative hearings.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Division of Building Code Enforcement: Building Code

815 KAR 7:120. Kentucky building code. Duane Curry, director; Jared Downs, general counsel; Tim House, deputy commissioner; and Steve Milby, commissioner, represented the division.

In response to a question by Co-Chair Harris regarding this administrative regulation and 815 KAR 7:125, Mr. Milby stated that these administrative regulations primarily made corrections and made compliance with energy standards less expensive.

815 KAR 7:125. Kentucky residential code.

Division of Heating, Ventilation and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:095. Vehicle identification.

A motion was made and seconded to approve the following amendment: to amend Section 1(3) to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Division of Plumbing: Plumbing

815 KAR 20:084. Storage and installation of cross-linked polyethylene piping.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:191. Minimum fixture requirements.

In response to a question by Co-Chair Harris, Mr. House stated that this administrative regulation provided for mobile restrooms for use, for example, during remodeling of an existing, standard restroom.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 13, and 18 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:195. Medical gas piping installations.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the June 14, 2016, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

Other Business: Co-Chair Marzian announced that the Southern Legislative Conference would be held in Lexington, Kentucky, this summer, with Kentucky as the host state. Therefore, due to scheduling issues, the July meeting of the Subcommittee would be held July 14 at 1 p.m.

The Subcommittee adjourned at 1:30 p.m. until June 14, 2016, at 1 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

NONE

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

L - 2

The Locator Index lists all administrative regulations published in VOLUME 42 of the *Administrative Register of Kentucky* from July 2015 through June 2016. It also lists the page number on which each administrative regulation is published, the effective date of the administrative regulation after it has completed the review process, and other action which may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 41 are those administrative regulations that were originally published in VOLUME 41 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2015 Kentucky Administrative Regulations Service* was published.

KRS Index

L - 16

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 42 of the *Administrative Register of Kentucky*.

Technical Amendment Index

L - 32

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the *2015 Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the *Administrative Register of Kentucky*.

Subject Index

L - 33

The Subject Index is a general index of administrative regulations published in VOLUME 42 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
VOLUME 41					
The administrative regulations listed under VOLUME 41 are those administrative regulations that were originally published in Volume 41 (last year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when the <i>2015 Kentucky Administrative Regulations Service</i> was published.					
SYMBOL KEY:			31 KAR 4:180	2689	See 42 Ky.R.
* Statement of Consideration not filed by deadline			101 KAR 2:102		
** Withdrawn, not in effect within 1 year of publication			Amended	2113	
*** Withdrawn before being printed in Register			As Amended	2538	7-6-15
**** Emergency expired after 180 days			101 KAR 2:105		
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.			Amended	2118	
			As Amended	2542	7-6-15
			101 KAR 2:106		
			Amended	2120	
			As Amended	2543	7-6-15
			101 KAR 2:160		
			Amended	2121	7-6-15
			101 KAR 2:180		
			Amended	2123	
			As Amended	2544	7-6-15
			101 KAR 2:210		
			Amended	845	
			101 KAR 3:015		
			Amended	2125	
			As Amended	2546	7-6-15
			103 KAR 3:010		
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			Amended	2609	See 42 Ky.R.
			201 KAR 2:360	2691	See 42 Ky.R.
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			201 KAR 46:010		
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			201 KAR 46:020		
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			201 KAR 46:030		
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31 KAR 4:180E	2527	5-5-15			
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103 KAR 3:040E	1742	12-31-14			
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907 KAR 3:017E	1764	12-31-14			
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908 KAR 2:220E	1766	1-7-15			
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908 KAR 2:230E	1770	1-7-15			
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908 KAR 2:260E	1773	1-7-15			
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921 KAR 3:060E	2530	4-30-15			
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11 KAR 15:010					
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13 KAR 2:045					
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201 KAR 46:081			AmComments	2240	See 42 Ky.R.
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202 KAR 7:701			Amended	2042	See 42 Ky.R.
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601 KAR 14:020		See 42 Ky.R.	Amended	2641	See 42 Ky.R.
603 KAR 5:155	2453	See 42 Ky.R.	815 KAR 35:015		
603 KAR 10:002	2456	See 42 Ky.R.	Amended	2645	See 42 Ky.R.
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900 KAR 10:050			Amended	2425	See 42 Ky.R.
Amended	2664	See 42 Ky.R.	907 KAR 9:015	2475	See 42 Ky.R.
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Amended	2667	See 42 Ky.R.	907 KAR 10:014		
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902 KAR 20:320			Amended	1929	
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902 KAR 20:400			As Amended	2562	6-17-15
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902 KAR 45:040			Amended	2143	
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902 KAR 45:050			910 KAR 1:210		
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SYMBOL KEY:

* Statement of Consideration not filed by deadline
 ** Withdrawn, not in effect within 1 year of publication
 *** Withdrawn before being printed in Register
 (r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation

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31 KAR 4:180E		See 41 Ky.R.	Replaced	1732	1-4-16
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Replaced	2035	2-5-16	922 KAR 2:020E		
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AmComments	2583		Amended	2256	4-1-16
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Amended	2430		AmComments	1551	
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, not in effect within 1 year of publication
- *** Withdrawn before being printed in Register
- (r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

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